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इस भाग में भिन्न पृष्ठ संख्या वी जाती है जिससे कि यह प्रालग संकलन के रूप में रखा जा सके

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 29th August, 1966:—

BILL No. 59 OF 1966

A Bill further to amend the Delhi Municipal Corporation Act, 1957 and to make certain minor and consequential amendments to the Indian Trusts Act, 1882 and the Delhi Development Act, 1957.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Delhi Municipal Corporation (Amendment) Act, 1966. Short title and com-

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. mence-
ment.

(559)

Substitution of
"Administrator"

for
"Central
Govern-
ment" and
"Mayor-
in-Coun-
cil" for
"Standing
Commit-
tee".

2. Save as otherwise provided in this Act, throughout the Delhi Municipal Corporation Act, 1957 (hereinafter referred to as the principal Act),—

66 of 1957.

(a) except in clause (43) of section 2, sections 42, 137, 142, 185, 186, 187, 193, 195, 253, 269, 271, 298, 308, sub-section (1) of section 480, sub-section (2) of section 481 and sections 490, 503, 508, 511 and 513, for the words "Central Government", the word "Administrator" shall be substituted;

(b) for the words "Standing Committee" the words "Mayor-in-Council" shall be substituted.

10

Amend-
ment of
section 2.

3. In section 2 of the principal Act,—

(a) in sub-clause (b) of clause (9), for the word "Commissioner", the words "Mayor-in-Council" shall be substituted;

(b) clauses (12), (13), (19), (20) and (28) shall be omitted;

(c) for clause (14), the following clause shall be substituted, namely:—

'(14) "Director of Municipal Elections" means an officer authorised by the Administrator to exercise the powers and perform the duties of the Director of Municipal Elections under this Act.' 15 20

Amend-
ment of
section 3.

4. In section 3 of the principal Act,—

(a) in sub-section (6), for the words "on a scale of one councillor for not more than twenty thousand of the population", the words "on a scale of one councillor for not less than twenty thousand of the population" shall be substituted;

(b) in sub-section (7), for the word "six", the word "ten" shall be substituted.

25

Amend-
ment of
section 4.

5. In sub-section (1) of section 4 of the principal Act, in the proviso, for the word "it", the word "he" shall be substituted.

6. In section 9 of the principal Act,—
- (a) in sub-section (1)—
- (i) for clause (e), the following clause shall be substituted, namely:—
- “(e) if he has been sentenced on conviction by a criminal court—
- (i) to imprisonment for any of the offences referred to in clause (d); or
- (ii) to imprisonment for an offence involving moral turpitude punishable with imprisonment for a term exceeding six months; or
- (iii) to imprisonment for a term of not less than two years for any other offence,
- unless in each case a period of five years has elapsed since the date of the conviction or the disqualification has been removed either retrospectively or prospectively by the Administrator;”;
- (ii) in clause (j), the words “or any of the municipal authorities” shall be omitted;
- (b) in sub-section (2)—
- (i) in clause (b), for sub-clauses (ii) and (iii) the following sub-clauses shall be substituted, namely:—
- “(ii) any salary, honorarium, fee, allowance or facility for serving as the Mayor or as a Deputy Mayor or as a councillor or an alderman; or
- (iii) any fee for attendance at meetings of any committee of the Corporation;”;
- (ii) in clause (c),—
- (A) in sub-clause (iv), the words “any municipal authority or” shall be omitted and for the words “or from any such authority, officer or other employee”, the words “or from any such officer or other employee” shall be substituted;
- (B) for sub-clause (vi), the following sub-clause shall be substituted, namely:—
- “(vi) any agreement or contract with the Corporation, for taking water or electricity or any

Amend.
ment of
section 9.

other thing which the Corporation may generally supply.”.

**Amend-
ment of
sections
11, 12, 14
and 30.** 7. In sub-section (3) of section 11, sub-section (1) of section 12, section 14 and sub-section (5) of section 30 of the principal Act, for the word “Commissioner”, the words “Director of Municipal Elec- 5 tions” shall be substituted.

**Amend-
ment of
section 13.** 8. In sub-section (1) of section 13 of the principal Act, for the word “six”, the word “ten” shall be substituted.

**Amend-
ment of
section 22.** 9. In section 22 of the principal Act,—

(a) for clause (3), the following clauses shall be substitu- 10 ted, namely:—

“(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate to vote or re- 15 strain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to, religious symbols or the use of, or appeal to, national symbols such as the national flag, or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.” 20

(3A) The promotion of or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language, by a candidate or any other person with the consent of the candidate for the furtherance of the 25 prospects of the election of that candidate or for prejudicially affecting the election of any candidate.”;

(b) in clause (4), after the words “or by any other person”, the words “with the consent of a candidate” shall be inserted and the words “from contest” shall be omitted; 30

(c) in clause (5), after the words “or by any other person”, the words “with the consent of a candidate” shall be inserted.

**Amend-
ment of
section 25.** 10. For sub-section (2) of section 25 of the principal Act, the following sub-section shall be substituted, namely:—

“(2) No person shall convene, hold or attend any public 35 meeting within any ward within twenty-four hours before the date of commencement of the poll or on the date or dates on which a poll is taken for an election in that ward.”.

11. In sub-section (1) of section 32 of the principal Act, in the form of oath or affirmation, for the words "that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter", the words "that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter" shall be substituted.

10 12. In section 33 of the principal Act,—

Amend-
ment of
section 33.

(a) in clause (b) of sub-section (1), for the word "Commissioner", the words "Municipal Secretary" shall be substituted;

15 (b) in sub-section (3), for the word "Commissioner", the words "Director of Municipal Elections" shall be substituted.

13. For section 34 of the principal Act, the following section shall be substituted, namely:—

Substitu-
tion of
new sec-
tion for
section 34.

"34. (1) The councillors and aldermen shall be entitled to receive—

Payment
of hono-
raria or
fees and
allow-
ances, and
provision
for tele-
phone faci-
lities to
council-
lors and
aldermen.

20 (a) honoraria or fees; and

(b) allowances,

for attendance at meetings of the Corporation and of any of its committees at such rate as may be determined by rules made in this behalf.

25 (2) Every councillor and alderman shall be provided, free of charge, with telephone at his residence."

for tele-
phone faci-
lities to
council-
lors and
aldermen.

14. For the sub-heading "*Mayor and Deputy Mayor*" occurring before section 35, and for sections 35 to 40 (both inclusive) of the principal Act, the following sub-heading and sections shall be substituted, namely:—

Substitu-
tion of
new sec-
tions for
sections
35 to 40.

"Mayor"

35. The Corporation shall, at its first meeting, after a general election, convened under section 73, elect one of its members to be the Mayor thereof and so often as the office of Mayor becomes vacant, the Corporation shall elect another member to be the Mayor.

Election
of Mayor.

Cesser of
office of
Mayor.

36. (1) The Mayor shall cease to hold office as such—
 (a) when he ceases to be a member of the Corporation; or
 (b) if he resigns his office by writing under his hand addressed to the Administrator; or
 (c) if he is removed from his office by a resolution of the Corporation passed by a majority of all the members of the Corporation:

Provided that no resolution for the purpose of clause (c) shall be moved unless a period of one year has elapsed from the date of election of the Mayor: 10

Provided further that if a resolution under clause (c) is not passed by a majority of all the members of the Corporation, no other resolution for the removal of the Mayor shall be moved unless a period of one year has elapsed from the date on which the former resolution was considered. 15

- (2) A resignation under clause (b) of sub-section (1) shall take effect from the date on which it is delivered to the Administrator.

Mayor
not to
preside
while re-
solution
for his
removal
from office
is under
consid-
eration.

37. (1) At any meeting of the Corporation, while any resolution for the removal of the Mayor from his office is under consideration, the Mayor shall not, though he is present, preside. 20

(2) Notwithstanding anything contained in section 80, the Mayor shall have the right to speak in, and otherwise to take part in the proceedings of, the Corporation while any resolution for his removal from office is under consideration at any meeting of the Corporation and shall be entitled to vote on such resolution or on any other matter during such proceedings. 25

Procedure
regarding
moving
of resolu-
tion for
removal
of Mayor.

38. A notice in writing of the intention to move a resolution referred to in clause (c) of sub-section (1) of section 36, signed by not less than one-third of the total membership of the Corporation, together with a copy of the proposed resolution shall be delivered to the Administrator in accordance with such rules as may be made in this behalf and the Administrator shall, after giving not less than fifteen days' notice thereof, convene, for the consideration of the resolution, a meeting of the Corporation to be held in the office of the Corporation on a date not later than thirty days from the date on which the notice was delivered to him and a councillor or an alderman, (not being a Deputy Mayor), nominated by the Administrator shall preside over such meeting. 30 35 40

- Discharge
of func-
tions of
Mayor by
Senior
Deputy
Mayor.
- 5
39. (1) When the office of the Mayor is vacant, the Senior Deputy Mayor shall act as Mayor until a new Mayor is elected.
- (2) When the Mayor is absent from his duty on account of illness or any other cause, the powers, duties and functions of the Mayor shall be exercised and performed by the Senior Deputy Mayor.
- (3) The Mayor may, by order in writing, delegate any of his powers, duties and functions to the Senior Deputy Mayor.”
15. For clause (d) of section 42 of the principal Act, the following 10 clauses shall be substituted, namely:—
- Amend-
ment of
section 42.
- “(d) the purchase and distribution of water to the public;
- (dd) the purchase and distribution of electricity to the public;”.
16. For the heading and sub-heading before section 44 and for sections 44 to 69 (both inclusive) of the principal Act, the following heading, sub-headings and sections shall be substituted, namely:—
- Substitu-
tion of
new
sections
for
sections
44 to 69.
- 'MUNICIPAL ADMINISTRATION'**
- Mayor-in-Council***
- 20 44. Subject to the provisions of this Act and the rules made thereunder, the executive power of the Corporation shall be exercised by the Mayor-in-Council.
- Executive
power of
Cor-
poration.
- 25 45. (1) The Mayor-in-Council shall consist of the Mayor and two Deputy Mayors.
- Constitu-
tion of
Mayor-in-
Council.
- (2) The Deputy Mayors shall be appointed by the Administrator on the advice of the Mayor from amongst the members of the Corporation.
- (3) The order in which the Deputy Mayors shall rank among themselves for official purposes shall be determined by the Mayor and the senior among them shall be designated as the Senior Deputy Mayor.
- 30 46. A Deputy Mayor shall cease to hold office as such—
- Cesser of
office of
Deputy
Mayor.
- (a) when he ceases to be a member of the Corporation; or
- 35 (b) if he resigns his office by writing under his hand addressed to the Mayor; or
- (c) if he is removed from his office by the Administrator on the advice of the Mayor; or

(d) when a new Mayor is elected.

Presi-
dency
over
meetings
of Mayor-
in-Coun-
cil.

Oaths of
office and
of secrecy.

47. The Mayor or, in his absence, the Senior Deputy Mayor shall preside over every meeting of the Mayor-in-Council.

48. Before the Mayor or a Deputy Mayor enters upon his office, the Administrator shall administer to him the oaths of office and of secrecy according to the forms set out below:—

Form of Oath of Office

"I, AB, do swear in the name of God that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as the Mayor and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or illwill."

Form of Oath of Secrecy

"I, AB, do swear in the name of God that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or which becomes known to me as the Mayor except as may be required in the due discharge of my duties as the Deputy Mayor".

Facilities
and privi-
leges of
Mayor and
salaries
and allow-
ances
payable
to Mayor
and
Deputy
Mayors.

49. (1) The Mayor may be given such facilities in respect of residential accommodation, conveyance and the like as may be determined in each case by rules made in this behalf.

(2) The Mayor and the Deputy Mayors shall be entitled to receive such salaries and allowances as the Corporation may, with the approval of the Administrator, determine.

50. (1) All executive action of the Mayor-in-Council shall be expressed to be taken in the name of the Corporation.

(2) All orders and other instruments made and executed in the name of the Corporation shall be authenticated in such manner as may be specified in the rules to be made in this behalf and the validity of an order or instrument so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Corporation.

(3) The Administrator shall make rules for the more convenient transaction of the business of the Mayor-in-Council and for the allocation among the Mayor and the Deputy Mayors of the said business.

Committees

51. (1) The Corporation may, with the previous approval of the Administrator, divide Delhi into zones not exceeding ten in number and constitute a Zonal Committee for each such zone.

(2) Each Zonal Committee shall consist of all the councillors elected from the wards within the zone for which it is constituted.

(3) A Zonal Committee shall, subject to the general control and supervision of the Mayor-in-Council, discharge such functions, in relation to the zone for which it is constituted, as the Corporation may require it to discharge or as may be prescribed by the Corporation by regulations made in this behalf.

(4) Each Zonal Committee shall elect one of its members to be the Chairman and another member to be the Vice-Chairman.

52. (1) The Mayor-in-Council may constitute as many Advisory Committees as it thinks fit for inquiring into, or reporting or advising upon, any matter which it may refer to them.

(2) Each such Advisory Committee shall consist of such number of members as the Corporation may elect from amongst its members in accordance with the system of proportional representation by means of the single transferable vote.

(3) The Mayor or the Deputy Mayor concerned with the subject-matter shall preside over the meeting of any such Advisory Committee.

53. (1) The Corporation may constitute as many special and *ad hoc* committees as it thinks fit for the exercise of any power or the discharge of any function which the Corporation may, by resolution, delegate to them or for inquiring into, or reporting or

advising upon, any matter which the Corporation may refer to them.

(2) Any such committee shall consist of members of the Corporation only.

(3) Notwithstanding anything contained in sub-section (2), an *ad hoc* committee may, with the previous approval of the Corporation, co-opt not more than three persons who are not members of the Corporation but who, in the opinion of the Corporation, possess special qualifications for serving on such committee. ⁵ ₁₀

Appoint-
ment of
sub-com-
mittees by
Zonal
Com-
mittees and
Advisory
Com-
mittee.

54. (1) A Zonal Committee or an Advisory Committee may appoint from among its own members any sub-committee consisting of such number of members as that Committee may think fit for exercising any power or discharging any function of that Committee under this Act or for inquiring into, or reporting or advising upon, any matter which that committee may refer to such sub-committee. ¹⁵

(2) Every such sub-committee shall conform to such instructions as may be given to it by the Committee by which it has been appointed. ²⁰

Vacation
of seats
by mem-
bers of
the Com-
mittees
and Sub-
commit-
tees.

55. (1) If a member of any Committee or sub-committee ceases to be a councillor or an alderman, he shall cease to be a member of that Committee or sub-committee, as the case may be and his seat shall thereupon become vacant.

(2) If a member of a Zonal Committee or an Advisory Committee absents himself during three consecutive months from the meetings of the Committee except on account of illness or any other cause approved by the Committee, or absents himself during six consecutive months from the meetings of the Committee on account of any cause whatsoever, whether approved by the Committee or not, he shall cease to be a member of the Committee and his seat shall thereupon become vacant. ²⁵ ₃₀

Advisory
Com-
mittees to
function
till new
Com-
mittees are
constitut-
ed.

56. An Advisory Committee shall continue to function until a new Committee is constituted in accordance with the provisions of this Act. ³⁵

- Power of
Corpora-
tion to
call for
extracts
of pro-
ceedings
from
Commit-
tees and
sub-com-
mittees.
- 5 57. The Corporation may at any time call for any extract of any proceedings of a Zonal Committee or an Advisory Committee or of any sub-committee appointed under this Act or for any return, statement, account or report concerning or connected with any matter with which any such Committee or sub-committee is empowered by or under this Act to deal; and every such requisition shall be complied with by any such Committee or sub-committee without any unreasonable delay.'.
- 10 17. In section 70 of the principal Act,—
- (a) in sub-section (1)—
- (i) in clause (a), for the words "any municipal officer or other municipal employee", the words "any other municipal officer or employee" shall be substituted;
- 15 (ii) in clauses (b) and (c), the words "except in regard to the Delhi Electric Supply Undertaking or the Delhi Transport Undertaking" shall be omitted;
- (b) sub-section (3) shall be omitted.
18. In section 71 of the principal Act,—
- (a) in the opening paragraph, the words "or any municipal authority" shall be omitted;
- 20 (b) for sub-clause (i) of clause (b), the following sub-clause shall be substituted, namely:—
- “(i) of the Mayor-in-Council, if it is incurred in the year next following such year; or”.
- 25 19. In sections 72 and 76 of the principal Act, for the words "Deputy Mayor", wherever they occur, the words "Senior Deputy Mayor" shall be substituted.
- 30 20. In section 81 of the principal Act,—
- (a) sub-section (1) shall be omitted;
- (b) for sub-section (2), the following sub-section shall be substituted, namely:—
- “(2) A councillor or an alderman may, subject to the provisions of sub-section (3), ask the Mayor-in-Council questions on any matter relating to the administration of this Act or the municipal government of Delhi and all
- Amend-
ment of
section 70.
- Amend-
ment of
section 71.
- Amend-
ment of
sections
72 and 76.
- Amend-
ment of
section 81.
- 35

such questions shall be addressed to the Mayor-in-Council and shall be answered either by the Mayor or a Deputy Mayor.”;

(c) in sub-section (3), in sub-clause (v) of clause (b), the words “or of any of the municipal authorities” shall be omitted; 5

(d) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) The Mayor or a Deputy Mayor shall not be bound to answer a question if it asks for information which has been communicated to him or the Mayor-in-Council in confidence or if, in his opinion, it cannot be answered without prejudice to public interest or the interest of the Corporation.”;

(e) in sub-section (7), the words “by the Commissioner” shall be omitted; 15

(f) sub-section (8) shall be omitted.

Amend-
ment of
section 82,

21. In section 82 of the principal Act, the proviso shall be omitted.

Substitu-
tion of
new sec-
tions for
sections
83 and 84.

22. For the sub-heading “*Transaction of business by Standing and other Committees*” occurring before section 83, and for sections 83 and 84, of the principal Act, the following sub-heading and sections 20 shall be substituted, namely:—

“Transaction of business by Committees”

Presiding
officer
at meet-
ings of
Zonal
Commit-
tees.

83. (1) The Chairman, or in his absence, the Vice-Chairman, shall preside over every meeting of the Zonal Committee.

(2) In the absence of the Chairman and the Vice-Chair- 25 man from any meeting, the members of the Zonal Committee shall choose one of their number to preside over the meeting.

Conduct
of busi-
ness at
meetings
of Com-
mittees.

84. The Corporation may make regulations for the procedure and the conduct of business at meetings of the Zonal Committees and all other Committees, except the Advisory Com- 30 mittees which shall regulate their own procedure.”.

Amend-
ment of
section 85.

23. In section 85 of the principal Act, for the words “and of the Standing Committee and every other committee of the Corporation”,

the words "and of every Committee of the Corporation except the Advisory Committees" shall be substituted.

24. In Chapter VI of the principal Act, before section 89, the following sections shall be inserted, namely:—

Insertion
of new
sections
88A, 88B,
88C, 88D,
88E, and
88F.

5 "88A. (1) The Mayor-in-Council shall, with the approval of the Administrator, appoint a suitable person as the Commissioner of the Corporation.

Appoint-
ment etc.,
of Com-
missioner.

(2) The Commissioner so appointed shall hold office for a term of five years in the first instance:

10 Provided that his appointment may be renewed from time to time for a term not exceeding one year at a time:

15 Provided further that where the Commissioner holds a lien on any service under the Government, the Administrator may at any time after giving reasonable notice to the Mayor-in-Council replace his services at the disposal of the Government.

(3) The Commissioner shall not undertake any work unconnected with his office without the sanction of the Administrator and of the Mayor-in-Council.

20 88B. The Commissioner shall be paid out of the Municipal Fund such monthly salary and allowances, if any, as may from time to time be fixed by the Administrator and may be given such facilities (if any) in relation to residential accommodation, conveyance and the like, as may from time to time, be fixed by the Administrator:

Salary
and allow-
ances of
Com-
missioner.

25 Provided that the salary of the Commissioner shall not be varied to his disadvantage after his appointment.

88C. (1) Leave may be granted to the Commissioner by the Mayor-in-Council.

Leave of
absence of
Commis-
sioner.

30 (2) Whenever such leave is granted to the Commissioner, the Mayor-in-Council shall, with the approval of the Administrator, appoint another person to officiate as Commissioner in his place.

Appointment
of officiating
Commissioner in case
of death, re-
signation,
etc., of Com-
missioner.

88D. If any vacancy occurs in the office of the Commissioner on account of death, resignation or otherwise, the Mayor-in-Council may, with the approval of the Administrator, appoint another person to officiate as Commissioner in his place for a term not exceeding two months pending the appointment of a 5 Commissioner under section 88A.

Service
regulations
of Commis-
sioner.

88E. (1) If the Commissioner is an officer in the service of the Government, the Corporation shall make such contribution towards his leave allowances, pension and provident fund as may be required by the conditions of his service under the Government, to be paid by him or for him, as the case may be. 10

(2) If the Commissioner is not an officer in the service of the Government, his leave and leave allowances, his superannuation or retirement, his gratuity or pension, and the proportions of his pensionary or provident fund contribution payable res- 15 pectively from his salary and from the Municipal Fund shall be governed by rules:

Provided that—

(a) the amount of any such leave and leave allowances, gratuity or pension, shall in no case exceed what would 20 be admissible in the case of Government servants of similar standing and status; and

(b) the conditions under which such allowances, gratuity or pension are granted or any leave, superannuation or retirement is sanctioned, shall not be more favourable than those for the time being prescribed for such Government 25 servants.

Functions
of Com-
missioner.

88F. The Commissioner shall be the principal executive officer of the Corporation and shall, subject to the supervision and control of the Mayor-in-Council, also—

(a) exercise all the powers and perform all the duties 30 specifically conferred or imposed upon him by this Act or by any other law for the time being in force;

(b) prescribe the duties of, and exercise supervision and control over the acts and proceedings of, all other municipal officers and employees other than the Municipal Secre- 35 tary and the Municipal Chief Auditor and the municipal officers and other employees immediately subordinate to them and subject to any regulation that may be made in this behalf, dispose of all questions relating to the service of the 40

aforesaid other municipal officers and employees and their pay, privileges, allowances and other conditions of service.”.

25. In section 89 of the principal Act,—

5 (a) in sub-section (1), for the words “The Corporation shall appoint suitable persons”, the words “The Mayor-in-Council shall appoint suitable persons” shall be substituted;

 (b) in sub-section (2), for the words “that Government”, the words “the Administrator” shall be substituted.

26. In section 90 of the principal Act,—

10 (a) for the words “appropriate authority”, wherever they occur, the word “Commissioner” and for the words “Committee concerned”, wherever they occur, the words “Mayor-in-Council” shall be substituted;

15 (b) in sub-section (2), for the words “three hundred and fifty rupees” in both the places where they occur, the words “four hundred rupees” shall be substituted;

 (c) in sub-section (4), for the words “or at the instance of such authority or committee”, the words “or at the instance of the Commissioner or the Mayor-in-Council” shall be substituted;

20 (d) in sub-sections (5) and (6), for the words “two hundred and fifty rupees”, the words “four hundred rupees” shall be substituted;

 (e) sub-section (7) shall be omitted.

27. For sub-section (1) of section 92 of the principal Act, the following sub-section shall be substituted, namely:—

 (“1) Subject to the provisions of this Act, the power of appointing municipal officers and other municipal employees, whether temporary or permanent—

30 (a) to posts carrying a minimum monthly salary (exclusive of allowances) of four hundred rupees or more shall vest in the Mayor-in-Council;

 (b) to posts carrying a minimum monthly salary (exclusive of allowances) of less than four hundred rupees shall vest in the Commissioner:

35 Provided that the power of appointing officers and other employees immediately subordinate to the Municipal Secretary or the Municipal Chief Auditor, whose minimum monthly salary (exclusive of allowances) is less than four hundred rupees shall vest in the Mayor-in-Council:

Amend-
ment of
section 89.

Amend-
ment of
section 90.

Amend-
ment of
section 92.

Provided further that the Mayor-in-Council may delegate to the Municipal Secretary or the Municipal Chief Auditor the power of appointing officers and other employees immediately subordinate to such Secretary or Auditor, whose minimum monthly salary (exclusive of allowances) is not more than two hundred and fifty rupees.”.

**Amend-
ment of
section 93.** **28.** In section 93 of the principal Act, for the words “the Corpora-
tion”, the words “the authority by which he was appointed” shall be substituted.

**Substitu-
tion of
new sec-
tions for
section 96.** **29.** For section 96 of the principal Act, the following sections shall be substituted, namely:—

**Consultation with
Union
Public
Service
Commis-
sion and
Municipal
Service
Commis-
sion.** “96. (1) No appointment to any post carrying a maximum monthly salary of one thousand and five hundred rupees or more (exclusive of allowances) shall be made except after consultation with the Union Public Service Commission. **15**

(2) No appointment to any post carrying a maximum monthly salary of more than one hundred and ten rupees (exclusive of allowances) but less than one thousand and five hundred rupees (exclusive of allowances) shall be made except after consultation with the Municipal Service Commission constituted under section 96A. **20**

(3) Notwithstanding anything contained in sub-sections (1) and (2), it shall not be necessary to consult the Union Public Service Commission or the Municipal Service Commission, as the case may be, in regard to the selection for appointment,— **25**

(a) to any acting or temporary post for a period not exceeding one year; or

(b) to such posts as may from time to time be specified by the Corporation in consultation with the Union Public Service Commission or the Municipal Service Commission, **30** as the case may be, when such posts are to be filled by promotion or by transfer; or

(c) to a post when at the time of such appointment the person to be appointed thereto is a member of an all-India Service or is in the service of the Central Government or a State Government in a Class I post; or **35**

(d) to a permanent or temporary post, if the officer or other employee to be appointed is not likely to hold that post for more than one year or if such officer or other employee

is likely to hold the post for more than one year but not more than three years and the Union Public Service Commission or the Municipal Service Commission, as the case may be, advises that the appointment may be made without consulting it.

5 96A. (1) The Administrator shall, as soon as may be after the commencement of the Delhi Municipal Corporation (Amendment) Act, 1966, constitute a Municipal Service Commission, consisting of—

10 (a) a chairman who shall be nominated by the Central Government; and

 (b) two other members of whom one shall be nominated by the Administrator and the other by the Mayor-in-Council.

15 (2) The Administrator shall, by rules made in this behalf, provide for—

 (a) the term of office of, the salaries and allowances payable to, and other conditions of service of, the members (including the chairman) of the Municipal Service Commission;

20 (b) the manner in which that Commission shall perform the duties imposed upon it by or under this Act;

 (c) the number of members of staff of that Commission and their salaries, allowances and other conditions of service.

25 (3) The salaries and allowances of the members (including the chairman) of the Municipal Service Commission and its staff shall be paid out of the Municipal Fund.

96B. (1) Save as otherwise provided in sub-section (3) of Functions section 96, the Municipal Service Commission shall be consulted— of Municipal Service Commission.

30 (a) in all matters relating to the methods of recruitment to posts referred to in sub-section (2) of section 96;

 (b) on the principles to be followed in making appointments to all the posts referred to in the said sub-section (2) and in making promotions and transfers from one post to another of the aforesaid posts and on the suitability of the candidates for such appointments, promotions or transfers;

 (c) on such disciplinary matters affecting a person serving under the Corporation as may be prescribed by regulations;

(d) on any claim by, or in respect of, a person who is serving or has served under the Corporation that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the Municipal Fund,

and it shall be the duty of the Municipal Service Commission to advise on any matter so referred to it and on any other matter which the Mayor-in-Council may refer to it.”.

**Amend-
ment of
section 97.**

30. In section 97 of the principal Act,—

10

(a) in sub-section (1), for the words “The Commission”, the words, brackets and figures “Each of the Commissions referred to in sub-sections (1) and (2) of section 96” and for the words “the Commission”, wherever they occur, the words “that Commission” shall be substituted;

15

(b) for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) In the case of any difference of opinion between the Union Public Service Commission and the Mayor-in-Council on any matter, the Mayor-in-Council shall refer the matter to the Central Government and the decision of that Government thereon shall be final.

20

“(3) In the case of any difference of opinion between the Municipal Service Commission and the Mayor-in-Council on any matter, the Mayor-in-Council shall refer the matter to the Administrator and the decision of the Administrator thereon shall be final.”.

**Amend-
ment of
section 98.**

31. In section 98 of the principal Act,—

(a) in sub-section (1), for the word “Corporation”, where it occurs for the first and third times, the words “Mayor-in-Council” shall be substituted;

30

(b) in sub-section (2), for the words “the Commission”, the words “the Union Public Service Commission or the Municipal Service Commission, as the case may be,” shall be substituted.

**Amend-
ment of
section 99.**

32. In section 99 of the principal Act,—

35

(a) clause (h) of sub-section (1) shall be omitted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Municipal Fund shall be held by the Corporation in trust for the purposes of this Act subject to the

40

provisions herein contained and shall be maintained in the municipal account.”.

33. For section 100 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 100.

5 ‘100. All moneys payable to the credit of the Municipal Fund shall be received by the Commissioner and shall be forthwith paid into the State Bank of India to the credit of the municipal account which shall be entitled “The Account of the Municipal Fund of Delhi”.’.

Municipal Fund to be kept in the State Bank of India.

10 **34.** For sub-section (1) of section 101 of the principal Act, the following sub-section shall be substituted, namely:—

Amendment of section 101.

“(1) Save as otherwise provided in this Act, no payment shall be made by the State Bank of India out of the Municipal Fund except on a cheque signed by both—

15 (a) the Chief Accountant or an officer subordinate to him authorised by the Mayor-in-Council in this behalf; and

(b) the Commissioner or a Deputy Commissioner or an officer subordinate to the Commissioner authorised by the Mayor-in-Council in this behalf.”.

20 **35.** In the proviso to section 102 of the principal Act,—

Amendment of section 102.

(a) in clause (c),—

(i) in sub-clause (i), for the words “that Government”, the words “the Administrator” shall be substituted;

(ii) in sub-clause (v), the words “or any of the municipal authorities” shall be omitted;

25 (b) in clause (d), for the words “the Central Government”, the words “the Central Government or the Administrator” shall be substituted.

36. For section 104 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 104.

35 “104. Whenever any sum is expended under clause (c), clause (e) or clause (f) of the proviso to section 102, the Commissioner shall forthwith communicate the circumstances to the Mayor-in-Council, which may take, or recommend to the Corporation to take, such action under the provisions of this Act as shall, in the circumstances, appear possible and expedient for covering the amount of the additional expenditure.”.

Procedure when money not covered by a budget grant is expended.

Amend-
ment
section 106

37. In section 106 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) On the written requisition of the Administrator or a Secretary to the Central Government, the Mayor-in-Council may at any time require the Commissioner to undertake the execution of any work certified by the Administrator or such Secretary to be urgently required in public interest and for this purpose temporarily to make payments from the Municipal Fund so far as the same can be met without unduly interfering with the regular work of the municipal government.”;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) On the receipt of any requisition under sub-section (1), the Mayor-in-Council shall forthwith forward a copy thereof to the Corporation together with a report of the steps taken in pursuance of the same.”.

Substitu-
tion of
new sec-
tion for
section 107.

38. For section 107 of the principal Act, the following section shall be substituted, namely:—

20

“107. (1) Surplus moneys standing at the credit of the Municipal Fund shall be deposited in the State Bank of India or in such scheduled bank or banks as the Corporation may select or be invested in public securities.

(2) The loss, if any, arising from such deposit or investment shall be debited to the Municipal Fund.”.

Amend-
ment of
section 109.

39. In section 109 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Corporation shall, on or before the 31st day of March every year, adopt for the ensuing year a budget estimate which shall be the estimate of the income and expenditure of the Corporation to be received and incurred on account of the municipal government of Delhi.”;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The budget estimate shall be prepared in such form, presented and adopted in such manner and shall pro-

vide for all such matters, as may be prescribed by regulations made in this behalf.”.

40. In section 110 of the principal Act,—

5 (a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) On the recommendation of the Mayor-in-Council, the Corporation may, from time to time, during the year,—

10 (i) increase the amount of any budget grant under any head,

15 (ii) make an additional budget grant for the purpose of meeting any special or unforeseen requirements arising during the said year,

(iii) transfer the amount or portion of the amount of the budget grant under any head to the amount of the budget grant under any other head, or

15 (iv) reduce the amount of the budget grant under any head:

20 Provided that due regard shall be had to all the requirements of this Act and in making any increase or any additional budget grant, the estimated cash balance at the close of the year shall not be reduced below the sum of one lakh of rupees or such higher sum as the Corporation may determine.”;

25 (b) in sub-section (2), for the words “budget estimates”, the words “budget estimate” shall be substituted;

25 (c) in sub-section (4), in the proviso, for the words “that Committee”, the words “the Mayor-in-Council” shall be substituted;

30 (d) sub-section (5) shall be omitted.

30 **41. In section 112 of the principal Act, for the words “the Standing Committee or, as the case may be, the Delhi Electric Supply Committee, or the Delhi Transport Committee or the Delhi Water Supply and Sewage Disposal Committee”, the words “the Mayor-in-Council” shall be substituted.**

Amend-
ment of
section
112.

35 **42. After sub-section (2) of section 113 of the principal Act, the following sub-section shall be inserted, namely:—**

35 (“(2A) Nothing in clause (d) of sub-section (2) shall be deemed to empower the Corporation to levy a tax on the sale or supply of electricity to the New Delhi Municipal Committee

Amend-
ment of
section
113.

or the Military Engineer Services, Delhi Cantonment or the Delhi Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948.”.

54 of 1948.

Amend-
ment of
section 115

43. In sub-section (4) of section 115 of the principal Act, in clause (b), the words “and not used or intended to be used exclusively for the purposes of the Delhi Electric Supply Undertaking or the Delhi Transport Undertaking or the Delhi Water Supply and Sewage Disposal Undertaking” shall be omitted. 5

Amend-
ment of
section 116

44. In sub-section (1) of section 116 of the principal Act, for the second proviso, the following proviso shall be substituted, namely:— 10

“Provided further that in respect of any land or building, the standard rent of which has been fixed under the Delhi Rent Control Act, 1958, the ratable value thereof shall not exceed the annual amount of the standard rent so fixed.”. 59 of 1958.

Amend-
ment of
section 117

45. In section 117 of the principal Act,— 15

(a) for the words “Delhi Water Supply and Sewage Disposal Committee”, wherever they occur, the words “Mayor-in-Council” shall be substituted;

(b) in sub-section (1), for the words “that Committee”, the words “the Mayor-in-Council” shall be substituted. 20

Amend-
ment of
section 118.

46. In sub-section (1) of section 118 of the principal Act, for the words “Delhi Water Supply and Sewage Disposal Committee”, the words “Mayor-in-Council” shall be substituted.

Amend-
ment of
section 124.

47. In sub-section (1) of section 124 of the principal Act, for the word “Corporation”, the words “Mayor-in-Council” shall be substituted. 25

Amend-
ment of
section 150.

48. In section 150 of the principal Act,—

(a) in sub-section (2), for the word “its”, the word “his” and for the words “that Government”, the words “the Administrator” shall be substituted; 30

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) After a tax has come into force in any year in accordance with the foregoing provisions of this section, the provisions of sub-section (2) of section 109 shall apply in relation to such tax in any subsequent year as they apply in 35

relation to any tax imposed under sub-section (1) of section 113.”.

49. In section 182 of the principal Act, for the words “Collector of Land Customs”, in both the places where they occur, the words “Collector of Customs” and for the words “land customs” in both the places where they occur, the word “customs” shall be substituted.

50. In sections 190, 191 and 192 of the principal Act, for the word “Commissioner”, wherever it occurs, the words “Mayor-in-Council” shall be substituted.

10 51. In sub-section (2) of section 195 of the principal Act, for the words “any municipal authority, officer or other employee”, the words “any municipal officer or other employee” shall be substituted.

52. For section 198 of the principal Act, the following section shall be substituted, namely:—

15 53. “198. Whenever the Corporation decides to acquire any immovable property for the purposes of this Act, the Mayor-in-Council shall acquire such property on behalf of the Corporation by agreement on such terms and at such price as may be determined by the Mayor-in-Council.”.

20 53. In section 199 of the principal Act, for the word “Commissioner”, in both the places where it occurs, the words “Mayor-in-Council” and for the word “Government”, the word “Administrator” shall be substituted.

54. In section 200 of the principal Act,—

25 (a) for clauses (a) and (b), the following clauses shall be substituted, namely:—

30 “(a) the Mayor-in-Council may, in its discretion, dispose of, by sale or otherwise, any movable or immovable property belonging to the Corporation, or let out or hire any movable property or grant a lease of any immovable property belonging to the Corporation, including any right of gathering and taking fruits and the like;

(b) any municipal officer, authorised in this behalf by the Mayor-in-Council, may—

35 (i) dispose of, by sale or otherwise, any movable property belonging to the Corporation, the value of which does not exceed five thousand rupees; or

(ii) grant a lease (other than a lease in perpetuity) of any immovable property belonging to the Corporation; or
 (iii) sell or grant a lease in perpetuity of any immovable property belonging to the Corporation, the value of which does not exceed fifty thousand rupees or the annual rent for which does not exceed three thousand rupees;";

(b) clauses (c) and (e) shall be omitted;
 (c) for clause (g), the following clause shall be substituted, to namely:—

"(g) every case of disposal of property shall be reported without delay by—

(i) the Mayor-in-Council to the Corporation, where such disposal is under clause (a);
 (ii) the municipal officer, authorised by the Mayor-in-Council under clause (b), to the Mayor-in-Council, where such disposal is under that clause.".

Substitution of new section for section 202.

Procedure for making Contracts.

55. For section 202 of the principal Act, the following section shall be substituted, namely:—

20

"202. With respect to the making of contracts, the following provisions shall have effect, namely:—

(a) every such contract shall be executed on behalf of the Corporation by the Commissioner or such other municipal officer as the Mayor-in-Council may direct or authorise from time to time;

(b) no such contract for any purpose, which in accordance with any provision of this Act any municipal officer referred to in clause (a) may not carry out without the approval or sanction of any authority or officer, shall be made by him until and unless such approval or sanction has been duly obtained;

(c) no contract (other than a contract for the acquisition of immovable property) which will involve an expenditure exceeding ten thousand rupees or such higher amount as the Mayor-in-Council may fix, shall be made by any municipal officer referred to in clause (a) unless the same has been previously approved by the Mayor-in-Council;

5 (d) every contract (other than a contract for the acquisition of immovable property) made by any municipal officer referred to in clause (a) involving expenditure exceeding two thousand rupees but not exceeding ten thousand rupees or such higher amount as may be fixed under clause (c), shall be reported by such municipal officer within one month after the same has been made, to the Mayor-in-Council;

10 (e) no contract for the acquisition of immovable property shall be valid unless the contract has been approved by the Mayor-in-Council where the price stipulated to be paid for such property exceeds five thousand rupees.”.

56. For section 204 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 204.

15 “204. There shall be kept in such manner and in such form as may be prescribed by regulations an account of all receipts and expenditure of the Corporation.”.

Corporation to keep account of all receipts and expenditure.

57. In section 205 of the principal Act,—

Amendment of section 205.

20 (a) in sub-section (1), for the words “municipal accounts”, the words “municipal account” and for the words “signed by not less than two members of that Committee”, the words “signed by the Mayor and a Deputy Mayor or by the two Deputy Mayors” shall be substituted;

25 (b) in sub-section (2), for the words “municipal accounts”, the words “municipal account” shall be substituted;

 (c) in sub-section (3), for the words “the municipal accounts” and the words “all the municipal accounts”, the words “the municipal account” shall be substituted.

58. In section 206 of the principal Act,—

Amendment of section 206.

30 (a) in sub-section (1)—

 (i) in clause (a), for the words “municipal accounts”, the words “municipal account” shall be substituted;

(ii) in clause (b), for the words "that Committee", the words "the Mayor-in-Council" shall be substituted;

(b) in sub-section (3), for the words "the entire municipal accounts", the words "the municipal account" shall be substituted; 5

(c) in sub-section (5), for the words "that Government", the words "the Administrator" shall be substituted.

Amend-
ment of
section
207.

59. In sub-section (1) of section 207 of the principal Act, for the words "of any of the accounts of the Municipal Fund", the words "of the municipal account" shall be substituted. 10

Amend-
ment of
section
208.

60. In section 208 of the principal Act.—

(a) in sub-section (3), for the words "the Standing Committee, the Delhi Electric Supply Committee, the Delhi Transport Committee or the Delhi Water Supply and Sewage Disposal Committee", the words "or the Mayor-in-Council" shall be substituted; 15

(b) in sub-section (4), for the words "the Standing Committee or, as the case may be, the Delhi Electric Supply Committee, the Delhi Transport Committee or the Delhi Water Supply and Sewage Disposal Committee", the words "the Mayor-in-Council" shall be substituted and for the word "accounts", the word "account" shall be substituted. 20

Amend-
ment of
section
209.

61. In sub-section (1) of section 209 of the principal Act, for the words "any of the accounts of the Corporation", the words "the account of the Corporation" shall be substituted. 25

Substitu-
tion of
new head-
ing for
heading .
to Chapter
XII.

62. For the heading "WATER SUPPLY, DRAINAGE AND SEWAGE DISPOSAL" to Chapter XII of the principal Act, the heading "WATER SUPPLY AND DRAINAGE" shall be substituted.

Omission
of sections
211, 212
and 259
to 270.

63. Sections 211, 212 and 259 to 270 (both inclusive) of the principal Act shall be omitted. 30

- 64.** In section 213 of the principal Act,—
- (a) in sub-section (1)—
- (i) in the opening paragraph, for the words “Delhi Water Supply and Sewage Disposal Committee”, the words “Mayor-in-Council” shall be substituted;
- (ii) in clause (b), for the word “Committee”, the words “Mayor-in-Council” shall be substituted;
- (b) in sub-section (2), for the word “Committee”, the words “Mayor-in-Council” shall be substituted.
- 10 65.** In section 215, sub-section (1) of section 221, sub-section (3) of section 230 and sub-section (5) of section 272 of the principal Act, for the words “Delhi Water Supply and Sewage Disposal Committee”, the words “Mayor-in-Council” shall be substituted.
- 15 66.** In section 217 of the principal Act,—
- (a) in sub-section (1), for the words “Delhi Water Supply and Sewage Disposal Committee”, the words “Mayor-in-Council” shall be substituted;
- (b) in sub-section (2), for the words “said Committee”, the words “Mayor-in-Council” shall be substituted.
- 20 67.** In sub-section (1) of section 222 and sub-section (1) of section 223 of the principal Act, for the words “whether within or without the local limits of the Corporation”, the words “within the local limits of the Corporation” shall be substituted.
- 25 68.** For the sub-heading “Drainage and sewerage” occurring before section 239 of the principal Act, the sub-heading “Drainage” shall be substituted and in that section,—
- (a) in sub-section (1), the words “and all sewage disposal works whether constructed out of the Municipal Fund or otherwise” shall be omitted;
- 30 69.** In section 240 of the principal Act,—
- (a) in sub-section (1), the words “all sewage disposal works” shall be omitted;

Amend-
ment of
section
213.Amend-
ment of
sections
215, 221,
230 and
272.Amend-
ment of
section
217.Amend-
ment of
sections
222 and
223.Amend-
ment of
section
239.Amend-
ment of
section
240.

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

5

“(2) The Commissioner shall maintain and keep in repair all municipal drains when authorised by the Mayor-in-Council or the Corporation in this behalf and shall construct as many new drains as may from time to time be necessary for effectual drainage.”.

Substitution of new section for section 250.

70. The sub-heading “*Disposal of sewage*” occurring before section 250 of the principal Act shall be omitted and for that section, the following section shall be substituted, namely:—

10

Places for emptying of drains.

“250. The Commissioner may cause any or all of the municipal drains to empty into such place or places as may be specified by the Delhi Water Supply and Sewage Disposal Board constituted under the Delhi Water Supply and Sewage Disposal Act, 1966:

15

Provided that any place which, immediately before the constitution of the said Board, was used for the emptying of drains shall be deemed to be a place specified under this section for the said purpose.”.

Amendment of section 273.

71. In sub-section (1) of section 273 of the principal Act,—

20

(a) in clause (a), for the words “Delhi Water Supply and Sewage Disposal Committee”, the words “Mayor-in-Council” shall be substituted;

(b) in clause (c), the words “or any water course by which any such water work is supplied” shall be omitted;

25

(c) clause (d) shall be omitted;

(d) in clause (e), the words “or sewage” shall be omitted.

Omission of Chapters XIII and XIV.

72. Chapters XIII and XIV of the principal Act shall be omitted.

Amendment of section 298.

73. In sub-section (2) of section 298 of the principal Act, for the words “the Commissioner” and for the word “him”, the words “the Mayor-in-Council” shall be substituted.

30

- 74.** In section 299 of the principal Act,—
 (a) in sub-section (1)—
 (i) for the word “Commissioner”, the words “Mayor-in-Council” shall be substituted;
 5 (ii) the proviso shall be omitted;
 (b) in sub-section (2), for the word “Corporation” in both the places where it occurs, the words “Mayor-in-Council” shall be substituted.
- 75.** In section 301 of the principal Act, for the word “Corporation”, the words “Mayor-in-Council” shall be substituted.
 Amend-
ment of
section
301.
- 76.** In sub-section (1) of section 303 of the principal Act,—
 (a) for the words “The Commissioner may”, the words “The Commissioner may, with the previous sanction of the Mayor-in-Council” shall be substituted;
 15 (b) the proviso shall be omitted.
- 77.** In section 304 of the principal Act, for the word “Commissioner” and for the word “Corporation”, the words “Mayor-in-Council” shall be substituted.
 Amend-
ment of
section
304.
- 78.** In section 305 of the principal Act,—
 20 (a) in sub-section (1), for the word “Corporation” in both the places where it occurs, the words “Mayor-in-Council” shall be substituted;
 25 (b) in the proviso to sub-section (3), for the words “the Commissioner fails to take steps”, the words “the Mayor-in-Council does not take steps” shall be substituted;
 (c) in sub-section (6), for the words “as may be prescribed by the Commissioner with the sanction of the Standing Committee”, the words “as may be prescribed by the Mayor-in-Council” shall be substituted.
- 79.** In section 308 of the principal Act, for the words “Commissioner may, after giving to the owner of the land or building”, the words “Commissioner may, with the previous approval of the Mayor-in-Council and after giving to the owner of the land or building” shall be substituted.
 Amend-
ment of
section
308.

Amend-
ment of
section
309.

80. In sub-section (1) of section 309 of the principal Act, after the words "at the request of the owner", the words "and with the previous approval of the Mayor-in-Council" shall be inserted.

Amend-
ment of
section
325.

81. In sub-section (1) of section 325 of the principal Act, for the words "a municipal officer or other municipal employee", the words "any other municipal officer or employee" shall be substituted.

Amend-
ment of
section
327.

82. For sub-section (1) of section 327 of the principal Act, the following sub-sections shall be substituted, namely:—

"(1) The Mayor-in-Council may, with the sanction of the Corporation, determine the name or number by which any street or public place vested in the Corporation shall be known.

(IA) The Commissioner may—

(a) cause to be put up or painted at a conspicuous part of any building, wall or place at or near each end, corner or entrance of such street or on some convenient part of such street the name or number by which it is to be known;

(b) cause to be put up or painted on boards of suitable size the name of any public place vested in the Corporation;

(c) determine the number or sub-number by which say 20 premises or part of such premises shall be known and cause such number or sub-number to be fixed to the side or outer door of such premises or to some place at the entrance of the enclosure thereof.".

Amend-
ment of
section
372.

83. In sub-section (2) of section 372 of the principal Act, for the words "that Government", the words "the Administrator" shall be substituted.

Amend-
ment of
section
376.

84. In sub-section (1) of section 376 of the principal Act,—

(a) for the word "Commissioner", the words "Mayor-in-Council" shall be substituted; 30

(b) for the word "he" in both the places where it occurs, the word "it" shall be substituted;

(c) the words "with the previous sanction of the Corporation" shall be omitted;

(d) the proviso shall be omitted.

35

85. In sub-section (1) of section 405 of the principal Act, for the word "Commissioner", the words "Mayor-in-Council" and for the word "he", the word "it" shall be substituted. Amend-
ment of
section
405.

86. In sub-section (1) of section 408 of the principal Act, for the words "The Commissioner may", the words "The Commissioner may, with the previous approval of the Mayor-in-Council" shall be substituted. Amend-
ment of
section
408.

67. In section 425 of the principal Act, for the words "the Commissioner upon information in his possession", the words "the Mayor-in-Council upon information in its possession" and for the word "he", the words "the Mayor-in-Council" shall be substituted. Amend-
ment of
section
425.

88. In section 426 of the principal Act, for the word "Commissioner", wherever it occurs, the words "Mayor-in-Council" shall be substituted. Amend-
ment of
section
426.

15 89. In sub-section (1) of section 427 of the principal Act, for the word "Commissioner", the words "Mayor-in-Council" and for the words "reject the scheme with directions to the Commissioner to have a fresh scheme framed according to such directions", the words "refer the scheme back with such observations as the Corporation may wish to make to the Mayor-in-Council to have a fresh scheme prepared in accordance with such observations" shall be substituted. Amend-
ment of
section
427.

90. In section 428 of the principal Act, for the word "Commissioner", the words "Mayor-in-Council" and for the word "he", the word "it" shall be substituted. Amend-
ment of
section
428.

25 91. In sub-section (2) of section 430 of the principal Act, for the word "Commissioner", the words "Mayor-in-Council" shall be substituted. Amend-
ment of
section
430.

92. In section 431 of the principal Act,— Amend-
ment of
section
431.

30 (a) in the spacing paragraph, for the words and brackets "The Commissioner, the General Manager (Electricity) or the General Manager (Transport) or any municipal officer or other municipal employee authorised in this behalf by any of the aforesaid municipal authorities", the words "The Commissioner or any other municipal officer or employee authorised in this behalf by the Commissioner" shall be substituted;

35 (b) in clause (b), for the words and brackets "the Commissioner, the General Manager (Electricity) or the General Manager (Transport) or any municipal officer or employee",

the words "the Commissioner or any other municipal officer or employee" shall be substituted;

(c) in clause (e), for the words "by any of the municipal authorities", the words "by the Commissioner" shall be substituted.

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Amend-
ment of
section
432.

93. In sub-section (1) of section 432 of the principal Act, for the words and brackets "The Commissioner, the General Manager (Electricity) or the General Manager (Transport) or any person authorised in this behalf by any of the aforesaid municipal authorities", the words "The Commissioner or any person authorised in this behalf by the Commissioner" shall be substituted.

Amend-
ment of
section
433.

94. In section 433 of the principal Act,—

(a) in sub-section (1), for the words and brackets "the Commissioner, the General Manager (Electricity) or the General Manager (Transport) or any person authorised in this behalf by any of the aforesaid municipal authorities", the words "the Commissioner or any person authorised in this behalf by the Commissioner" shall be substituted;

(b) in sub-section (2), the words and brackets "the General Manager (Electricity) or the General Manager (Transport)", shall be omitted.

Amend-
ment of
section
437.

95. In section 437 of the principal Act, for the words and figures "or any of the municipal authorities specified in section 44", the words "or the Commissioner" shall be substituted.

Amend-
ment of
section
438.

96. In section 438 of the principal Act, for the words and brackets "any of the following appropriate municipal authorities, that is to say, the Commissioner or the General Manager (Electricity) or the General Manager (Transport) or of any municipal officer authorised in this behalf by any of the aforesaid municipal authorities", the words "the Commissioner or of any other municipal officer authorised in this behalf by the Commissioner" and for the words "the appropriate municipal authority", the words "the Commissioner" shall be substituted.

Amend-
ment of
section
439.

97. In section 439 of the principal Act, for the word "Corporation", where it occurs for the first time, the words "Mayor-In-Council" shall be substituted.

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98. In section 440 of the principal Act, for the words and brackets "the Commissioner or the General Manager (Electricity) or the General Manager (Transport) or of any municipal officer, a written document signed by any such municipal authority or officer", the words "the Mayor-in-Council or the Commissioner or any other municipal officer, a written document signed by the Commissioner or such other municipal officer" shall be substituted.

Amend-
ment of
section
440.

99. In sub-section (1) of section 442 of the principal Act, for the words and brackets "the Commissioner or the General Manager (Electricity) or the General Manager (Transport) or of any municipal officer, shall be deemed to be properly signed if it bears a facsimile of the signature of any such municipal authority or officer", the words "the Commissioner or any other municipal officer shall be deemed to be properly signed if it bears a facsimile of the signature of the Commissioner or such other municipal officer," shall be substituted.

Amend-
ment of
section
442.

100. In section 443 of the principal Act, for the words and brackets "by any of the following appropriate municipal authorities, that is to say, the Commissioner, the General Manager (Electricity) or the General Manager (Transport)", the words "by the Commissioner" shall be substituted.

Amend-
ment of
section
443.

101. In sub-section (1) of section 444 of the principal Act, for the words and figures "or by any of the municipal authorities specified in section 44 or any municipal officer", the words "or by the Commissioner or any other municipal officer" shall be substituted.

Amend-
ment of
section
444.

102. For section 450 of the principal Act, the following section shall be substituted, namely:—

Substitu-
tion of
new sec-
tion for
section
450.

"450. In any case not otherwise provided for in this Act or in any bye-law made thereunder, the Commissioner, with the previous approval of the Mayor-in-Council, may pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act or any bye-law in the Commissioner or any other municipal officer or employee.".

General
power to
pay com-
pensation.

103. In sub-section (1) of section 451 of the principal Act, for the words "as the appropriate municipal authority", the words "as the Commissioner" shall be substituted.

Amend-
ment of
section
451.

Amend-
ment of
section
453.

104. In sub-section (1) of section 453 of the principal Act, the words "or any municipal authority" shall be omitted.

Amend-
ment of
section
462.

105. In section 462 of the principal Act,—

(a) the words " , or any member, not being a councillor or an alderman, of the Delhi Electric Supply Committee, the Delhi Transport Committee, the Delhi Water Supply and Sewage Disposal Committee or of any other committee of the Corporation," shall be omitted;

(b) for the words and brackets "the Commissioner, the General Manager (Electricity), the General Manager (Transport) or any municipal officer or other municipal employee", the words "the Commissioner or any other municipal officer or employee" shall be substituted.

Substitu-
tion of
new sec-
tion for
section
467.

106. For section 467 of the principal Act, the following section shall be substituted, namely:—

15

Prosecu-
tions.

"467. Save as otherwise provided in this Act, no court shall proceed with the trial of any offence made punishable by or under this Act except on the complaint of, or upon information received from, the Commissioner or a person authorised by the Commissioner by a general or special order in this behalf." 20

Amend-
ment of
section
468.

107. In sub-section (1) of section 468 of the principal Act,—

(a) for the words and brackets "Any of the following appropriate municipal authorities, that is to say, the Commissioner, the General Manager (Electricity), the General Manager (Transport) or any person authorised by any of them", the words "The Commissioner or any person authorised by the Commissioner" shall be substituted;

(b) in the proviso, for the words and figures "or of any of the municipal authorities specified in section 44", the words "or of the Commissioner" shall be substituted.

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Amend-
ment of
section
473.

108. In section 473 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Commissioner or any other municipal officer or employee authorised by the Commissioner in this be- 3

half or any person who resides or owns property in Delhi may complain to a municipal magistrate of the existence of any nuisance.”;

S (b) in sub-section (2), for the words “any of the appropriate municipal authorities”, the words “the Commissioner” shall be substituted;

(c) in sub-section (5), the words “or any other appropriate municipal authority” shall be omitted.

109. In section 475 of the principal Act, the words “or any other appropriate municipal authority” shall be omitted.

Amend-
ment of
section
475.

110. In section 476 of the principal Act,—

Amend-
ment of
section
476.

(a) in sub-section (1)—

(i) in clause (e), for the words “or a municipal officer or other municipal employee”, the words “or any other municipal officer or employee” shall be substituted;

(ii) in clause (f), for the words “or any municipal officer or other municipal employee”, the words “or any other municipal officer or employee” shall be substituted;

15 (iii) in clause (g), for the words “by the Commissioner”, the words, brackets, letter and figures “by the Commissioner or any other municipal officer referred to in clause (a) of section 202” shall be substituted;

(iv) in clause (i), the words “any municipal authority or” shall be omitted;

25 (b) sub-section (2) shall be omitted.

111. In section 477 and in sub-section (1) of section 478 of the principal Act, the words “or against any municipal authority” and “any municipal authority or” shall be omitted.

Amend-
ment of
sections
477 and
478.

112. In sub-section (2) of section 480 of the principal Act, after the word “Corporation”, the words “or the Mayor-in-Council” shall be inserted.

Amend-
ment of
section
480.

113. In sub-section (1) of section 481 of the principal Act,—

Amend-
ment of
section
481.

(a) for the heading “B. Bye-laws relating to water supply, drainage and sewage disposal”, the heading “B. Bye-laws relating to water supply and drainage” shall be substituted;

(b) the headings "C. Bye-laws relating to electric supply" and "D. Bye-laws relating to transport services" and the items enumerated thereunder shall be omitted.

**Amend-
ment of
section
482.**

114. In sub-section (1) of section 482 of the principal Act,—

(a) in clause (c), for the words "any municipal officer", 5
the words "any other municipal officer" shall be substituted;

(b) the proviso shall be omitted.

**Amend-
ment of
section
483.**

115. In section 483 of the principal Act,—

(a) in sub-section (2), for the word "it", the word "him" 10
shall be substituted;

(b) in sub-section (3), for the word "its", the word "his"
and for the word "it", the word "he" shall be substituted.

**Amend-
ment of
section
485.**

116. In clause (b) of section 485 of the principal Act, the words
"or any of the municipal authorities" shall be omitted.

**Amend-
ment of
section
486.**

117. In section 486 of the principal Act, the words "or any of the 15
municipal authorities" and "and every municipal authority" shall be
omitted.

**Amend-
ment of
section
487.**

118. In section 487 of the principal Act,—

(a) in sub-section (1),—

(i) the words "or any municipal authority" shall be 20
omitted;

(ii) for the word "it", wherever it occurs, the word
"he" shall be substituted;

(iii) for the word "its", in both the places where it
occurs, the word "his" shall be substituted; 25

(iv) the words "or the municipal authority concerned",
wherever they occur, shall be omitted;

(b) sub-sections (2) and (3) shall be omitted.

**Amend-
ment of
section
489.**

119. In section 489 of the principal Act,—

(a) in sub-section (1), for the word "it" and the words 30
"that Government", the words "the Administrator" shall be
substituted;

(b) in sub-section (3), for the word "it", the word "he"
shall be substituted.

120. In sub-section (1) of section 490 of the principal Act, for the words "If, in the opinion of the Central Government", the words "If the Central Government, on receipt of a report from the Administrator or otherwise, is satisfied that" shall be substituted.

5 121. In section 493 of the principal Act, for the words "any municipal authority", the words "the Mayor-in-Council" shall be substituted.

122. For section 495 of the principal Act, the following section shall be substituted, namely:—

10 **123.** "No person shall obstruct or molest the Corporation or the Mayor or any Deputy Mayor, councillor or alderman or the Commissioner or any person employed by the Corporation or any person with whom the Commissioner or any other municipal officer referred to in clause (a) of section 202 has entered into a contract on behalf of the Corporation, in the performance of their duty or of anything which they are empowered or required to do by virtue or in consequence of any provision of this Act or of any rule, regulation or bye-law made thereunder".

20 **124.** In section 497 of the principal Act, for the words "or any municipal authority or any municipal officer or other municipal employee", the words "or the Commissioner or any other municipal officer or employee" shall be substituted.

25 **125.** In sub-section (1) of section 499 of the principal Act, the words and brackets "the Commissioner, the General Manager (Electricity), the General Manager (Transport)" shall be omitted.

125. Section 500 of the principal Act shall be re-numbered as sub-section (1) thereof and—

(a) in sub-section (1) as so re-numbered, the words and brackets "the Commissioner, the General Manager (Electricity), the General Manager (Transport)" shall be omitted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) No court shall take cognizance of an offence punishable under section 161 or section 164 or section 165 of the Indian Penal Code or under sub-section (2) or sub-section (3A) of section 5 of the Prevention of Corruption Act, 1947, alleged to have been committed by a councillor or an alder-

man, who is deemed to be a public servant under this section, except with the previous sanction of the Administrator; and for the court to take cognizance of any such offence, it shall not be necessary to obtain the sanction of the authority referred to in clause (c) of sub-section (1) 5 of section 6 of the said Prevention of Corruption Act, notwithstanding anything contained in that clause.”.

**Amend-
ment of
section
501.**

126. In section 501 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be 10 substituted, namely:—

“(1) As soon as may be after the 1st day of April in every year and not later than the 31st day of October of that year, the Corporation shall submit to the Administrator a detailed report of the municipal government of Delhi during the preceding year in such form as the Administrator 15 may direct.”;

(b) in sub-section (2), for the words “The Commissioner shall prepare such report”, the words “The Mayor-in-Council shall cause such report to be prepared” shall be substituted.

**Amend-
ment of
section
502.**

127. In section 502 of the principal Act, the words “or any muni- 20 cipal authority” shall be omitted.

**Amend-
ment of
section
504.**

128. Sub-section (1) of section 504 of the principal Act shall be omitted.

**Amend-
ment of
section
507.**

129. Section 507 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered and 25 before the existing *Explanation* to that section, the following sub-sections shall be inserted, namely:—

“(2) Notwithstanding anything contained in this Act, the Corporation may, with the consent of a Gaon Sabha and with the approval of the Administrator, entrust, either conditionally or 30 unconditionally to the Gaon Sabha, any of its functions under this Act.

(3) Where, by virtue of sub-section (2), any function of the Corporation has been entrusted to the Gaon Sabha, there shall be paid by the Corporation to the Gaon Sabha such sum as may be 35 agreed, or, in default of agreement, as may be determined by the Administrator, in respect of any extra costs of administration incurred by the Gaon Sabha in connection with the discharge of such function.”.

130. Sections 509 and 510 of the principal Act shall be omitted.

Omission
of sections
509 and
510.

131. In sub-section (2) of section 512 of the principal Act,—

(a) in clause (d), for the words “with or for the Corporation or the municipal authority concerned”, the words “with or for and on behalf of the Corporation” shall be substituted;

(b) in clause (e), the words “by the Corporation or the municipal authority concerned” shall be omitted.

132. Sub-sections (2), (3) and (4) of section 513 of the principal Act shall be omitted.

Amend-
ment of
section
513.

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133. Section 515 of the principal Act shall be omitted.

Omission
of section
515.

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134. In section 516 of the principal Act,—

Amend-
ment of
section
516.

(a) in sub-section (2)—

(i) in the opening paragraph, the words, brackets, letter and figures “of this section or of clause (a) of sub-section (2) of section 286” shall be omitted;

(ii) in clause (a), the words, brackets, letter and figures “of this section or under the Act referred to in clause (a) of sub-section (2) of section 286” shall be omitted;

20

(iii) in clause (b), for the words “with or for the Corporation or the municipal authority concerned”, the words “with or for and on behalf of the Corporation” shall be substituted;

(iv) in clause (c), the words “by the Corporation or the municipal authority concerned” shall be omitted;

25

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Notwithstanding anything contained in clause (b) of sub-section (2), all amounts treated as the capital provided by the Central Government to the Delhi Road Transport Authority under sub-section (1) of section 31 of the Delhi Road Transport Authority Act, 1950 (prior to its repeal) shall be deemed to be a loan advanced by the Central Government to the Corporation and shall be repayable by

30

13 of 1950.

the Corporation to the Central Government on such terms and conditions as may be determined by that Government in this behalf.”.

Amendment of Tenth Schedule.

135. In the Tenth Schedule to the principal Act, under the heading “Class V—Drugs, spices and perfumes”, for the word “dextrosol”, the word “dextrose” shall be substituted. 5

Amendment of Twelfth Schedule.

136. In the Twelfth Schedule to the principal Act, against section 251,—

(a) in the third column, for the existing entry, the entry “Rs. 2,000 or imprisonment which may extend to three months to or both” shall be substituted;

(b) in the fourth column, for the existing entry, the entry “Rs. 250” shall be substituted.

Amendment of section 5 of Act 61 of 1957.

137. In sub-section (2) of section 5 of the Delhi Development Act, 1957,— 15

(a) for clauses (d) and (e), the following clauses shall be substituted, namely:—

“(d) two representatives of the Municipal Corporation of Delhi to be elected by the councillors and aldermen from 20 among themselves;

(e) two representatives of the Metropolitan Council of Delhi to be elected by the members of that Council from among themselves;

(ee) three persons representing the Delhi Road Transport Corporation established under the Road Transport Corporations Act, 1950, the Delhi Electricity Board constituted under the Electricity (Supply) Act, 1948 and the Delhi Water Supply and Sewage Disposal Board constituted under the Delhi Water Supply and Sewage Disposal Act, 1966, of whom— 25

(i) one shall be elected by the members of the aforesaid Delhi Road Transport Corporation from among themselves;

(ii) one shall be elected by the members of the aforesaid Delhi Electricity Board from among 35 themselves; and

(iii) one shall be elected by the members of the aforesaid Delhi Water Supply and Sewage Disposal Board from among themselves.”.

138. In section 20 of the Indian Trusts Act, 1882, in clause (d), **Amend-**
for the words "by or on behalf of any municipal body", the words **ment of**
section
"by or on behalf of the Municipal Corporation of Delhi or by or on **20 of Act**
behalf of any municipal body" shall be substituted. **2 of 1882.**

5 139. If any difficulty arises in giving effect to the provisions of **Power to**
this Act, the Central Government may, by order, as occasion requires, **remove**
do anything which appears to it to be necessary for the purpose of **difficulties.**
removing the difficulty:

Provided that no such order shall be made after the expiration of
10 two years from the commencement of this Act.

140. (1) All rules made by the Central Government under the **Savings.**
principal Act and in force immediately before the commencement of
this Act shall be deemed to have been made by the Administrator
under the principal Act and shall continue in force until altered,
15 repealed or amended by the Administrator.

(2) All regulations made by the Municipal Corporation of Delhi
with respect to any matter specified in section 98 of the principal
Act and in force immediately before the commencement of this Act
shall be deemed to have been made by the Mayor-in-Council under
20 the said section and shall continue in force until altered, repealed or
amended by the **Mayor-in-Council.**

STATEMENT OF OBJECTS AND REASONS

On the 18th August, 1965, in reply to a starred question in the Lok Sabha, the important changes contemplated in the organisational set up of the Municipal Corporation of Delhi to enable that body to function more efficiently were indicated by the Government. The Bill seeks to give effect to these changes.

2. The salient features of the Bill are as under:—

(i) Under the Delhi Municipal Corporation Act, 1957, the executive power for the purpose of carrying out the provisions of the Act vests in the Commissioner but in a number of cases, he can act only with the previous sanction or approval of the Standing Committee or the Corporation. The scheme embodied in the Bill provides for the executive functions being vested in the Mayor-in-Council consisting of the Mayor who will be elected by the members of the Corporation and two Deputy Mayors who will be appointed by the Administrator on the advice of the Mayor. The Commissioner will be the principal executive officer of the Corporation and will exercise the powers and perform the duties conferred or imposed on him under the Act subject to the supervision and control of the Mayor-in-Council. In effect, therefore, the scheme embodied in the Bill seeks to vest in the representatives of the people a full measure of control over execution of the policies laid down by the Corporation and day to day civic administration. Accordingly, the provisions relating to the Standing Committee in the Act are proposed to be omitted and the powers of that Committee are proposed to be vested in the Mayor-in-Council. Certain functions which are essentially of executive nature, at present vested in the Corporation, will also be exercised by the Mayor-in-Council.

(ii) The powers exercisable under the Act by the Central Government in relation to the Corporation are, to a large extent, proposed to be entrusted to the Administrator who will exercise these powers with the assistance and advice of his Executive Council.

(iii) Separate Bills are being introduced in Parliament for constituting for the Union territory of Delhi a Road Transport Corporation, an Electricity Board and a Water Supply and Sewage Disposal Board for discharging the functions relating to trans-

port, bulk supply of electricity and water and sewage disposal. As a consequence of this, it is proposed to transfer the functions relating to transport, bulk supply of electricity and water and sewage disposal from the Corporation and to abolish the various municipal authorities connected with these functions.

(iv) The Bill provides for the setting up of Zonal Committees consisting of members elected to the Corporation from the zones concerned which will be in charge of such items of work within their zones as the Corporation may entrust to them. The Bill also provides for the appointment by the Mayor-in-Council of Advisory Committees consisting of members of the Corporation elected in accordance with the system of proportional representation by means of the single transferable vote.

(v) The Bill seeks to amend section 20 of the Indian Trusts Act, 1882, so as to confer the status of "trustee securities" on the debentures issued by the Municipal Corporation of Delhi. The Bill also seeks to amend the Delhi Development Act, 1957, so as to provide for representation on the Advisory Council of the Delhi Development Authority to the Metropolitan Council of Delhi and the proposed Delhi Road Transport Corporation, Delhi Electricity Board and Delhi Water Supply and Sewage Disposal Board.

3. The more important provisions of the Bill are further explained in the Notes on Clauses.

G. L. NANDA.

NEW DELHI;

The 16th August, 1966.

Notes on Clauses

Clause 2.—This clause seeks to confer on the Administrator the powers and functions in respect of a number of matters which are at present exercised in relation to the Corporation by the Central Government. It also provides for the Mayor-in-Council being vested with the powers and functions at present exercised or discharged by the Standing Committee.

Clause 4.—This clause provides for an increase in the number of aldermen from six to ten.

Clause 6.—This clause provides that a sentence of imprisonment for an offence involving moral turpitude punishable with imprisonment for a term exceeding six months shall also be a disqualification for being chosen as, and for being, a councillor or an alderman.

Clause 7.—This clause provides that the Director of Municipal Elections shall be in charge of municipal elections instead of the Commissioner because the latter will no longer be a municipal authority but will be functioning under the supervision and control of the Mayor-in-Council.

Clause 9.—This clause seeks to incorporate in section 22 of the principal Act, changes similar to those incorporated in section 123 of the Representation of the People Act, 1951.

Clause 10.—This clause seeks to bring section 25 of the principal Act in line with section 126(1) of the Representation of the People Act, 1951.

Clause 13.—This clause seeks to amplify section 34 of the principal Act so as to provide also for the grant of honoraria or fees to the members of the Corporation and for the installation of telephones, free of charge, at their residences.

Clause 14.—This clause makes the following provisions in respect of the Mayor:—

(a) The Mayor shall be elected by the members of the Corporation after each general election and so often as the office of Mayor becomes vacant (new section 35).

-
- (b) Circumstances in which the Mayor shall cease to hold office (new section 36).
 - (c) Procedure for removal of Mayor (new sections 37 and 38).
 - (d) Arrangements for discharge of functions of the Mayor when the office of Mayor becomes vacant or when the Mayor is absent (new section 39).

Clause 16.—This clause provides for the—

- (a) vesting of executive powers of the Corporation in the Mayor-in-Council (new section 44);
- (b) constitution of Mayor-in-Council and appointment of Deputy Mayors by the Administrator on the advice of the Mayor (new section 45);
- (c) circumstances in which a Deputy Mayor shall cease to hold office (new section 46);
- (d) salaries and allowances payable to the Mayor and Deputy Mayors (new section 49);
- (e) framing of rules for the conduct of business of the Mayor-in-Council (new section 50);
- (f) setting up of Zonal Committees, not exceeding ten in number, consisting of members of the Corporation elected from the wards within the zone concerned (new section 51); and
- (g) setting up of Advisory Committees in accordance with the system of proportional representation and special and *ad hoc* Committees of the Corporation and matters connected therewith (new sections 52 to 57).

Clause 20.—This clause provides that the interpellations will be answered by the Mayor or a Deputy Mayor.

Clause 24.—Provision has been made in this clause to the effect that the Commissioner will be appointed by the Mayor-in-Council with the approval of the Administrator and that the salaries and allowances and facilities that may be given to the Commissioner will be fixed by the Administrator. The clause also provides for other matters relating to the office of the Commissioner including his functions and new section 88F lays down that the Commissioner shall function subject to the supervision and control of the Mayor-in-Council.

Clause 25.—This clause seeks to empower the Mayor-in-Council to make appointments of certain senior municipal officers. At present this power vests in the Corporation.

Clause 27.—This clause seeks to vest in the Mayor-in-Council the power of making appointments to posts carrying a minimum monthly salary (exclusive of allowances) of Rs. 400 or more. At present the power is exercisable by the Corporation in respect of the general wing.

Clause 29.—This clause provides for the constitution of a Municipal Service Commission consisting of three members—one nominated by the Central Government, one by the Administrator and the other by the Mayor-in-Council. This Commission will be concerned with recruitment to posts carrying a maximum monthly salary of more than Rs. 110 (exclusive of allowances) but less than Rs. 1500 (exclusive of allowances) and will also be consulted regarding disciplinary matters affecting persons serving under the Corporation. Suitable adjustments have also been made in the provisions relating to consultation with the Union Public Service Commission as that Commission will be concerned only with recruitment to posts carrying a maximum salary of Rs. 1500 or more (exclusive of allowances).

Clause 31.—This clause seeks to confer on the Mayor-in-Council the power of making regulations relating to conditions of service of municipal employees and recruitment to municipal posts. At present this power is exercisable by the Corporation.

Clauses 32 to 38.—At present the Municipal Fund is kept in four accounts, namely, the Electricity Supply Account, the Transport Account, the Water Supply and Sewage Disposal Account and the General Account. With the abolition of separate municipal authorities dealing with the undertakings, it is no longer necessary to maintain the separate accounts and there will only be a single account for the Municipal Fund. The amendments proposed in these clauses are mainly consequential to this change.

Clauses 39 to 41.—These clauses make certain consequential changes in the provisions relating to budget estimates of the Corporation.

Clause 42.—This clause seeks to provide that the Corporation shall not levy any tax on the sale or supply of electricity to the New Delhi Municipal Committee or the Military Engineer Services, Delhi Cantonment or the Delhi Electricity Board.

Clause 44.—The amendment proposed in this clause is only consequential to the repeal of the Delhi and Ajmer Rent Control Act, 1952 by the Delhi Rent Control Act, 1958.

Clause 48.—This clause seeks to make it clear that once a non-obligatory municipal tax has come into force in accordance with the law, its continuance during subsequent years shall be regulated by the same provisions as are applicable to the continuance of obligatory taxes.

Clause 50.—This clause seeks to confer on the Mayor-in-Council the functions of investing in public securities the money paid in the sinking funds, transfer of moneys from the sinking funds and submitting annual statement to the Corporation regarding such funds. At present these functions are performed by the Commissioner.

Clause 52.—Under section 198 of the principal Act, the Commissioner has to acquire immovable properties which the Corporation may decide to acquire. The clause seeks to entrust this function to the Mayor-in-Council.

Clause 54.—Under section 200 of the principal Act, the Commissioner can dispose of properties belonging to the Corporation within certain limits beyond which he has to obtain the sanction of the Standing Committee or the Corporation. This clause seeks to empower the Mayor-in-Council to exercise full powers in the matter of disposal of properties belonging to the Corporation and also provides for certain limited powers being entrusted to officers of the Corporation in this behalf. Provision has also been made for submitting to the Corporation reports regarding the disposal of properties effected by the Mayor-in-Council and for similar reports being submitted to the Mayor-in-Council when the properties are disposed of by the municipal officers empowered in that behalf.

Clause 55.—Section 202 of the principal Act empowers the Commissioner to enter into contracts on behalf of the Corporation subject to approval of the Standing Committee or the Corporation being obtained in regard to contracts involving expenditure beyond certain limits. This clause seeks to provide for the contracts being executed by the Commissioner or other municipal officers authorised by the Mayor-in-Council subject to approval of the Mayor-in-Council being obtained—

(a) to contracts other than those for acquisition of immovable property and involving expenditure exceeding Rs. 10,000 or such higher amount as the Mayor-in-Council may fix; and

(b) to contracts for acquisition of immovable property where the price exceeds Rs. 5,000.

Provision has also been made for reports being submitted by the municipal officers to the Mayor-in-Council in respect of contracts made without such approval where the expenditure involved is Rs. 2,000 or more.

Clause 63.—This clause seeks to omit certain provisions of the principal Act which will become unnecessary with the setting up of the Water Supply and Sewage Disposal Board for Delhi.

Clauses 65 to 71.—These clauses make amendments consequential to the abolition of Water Supply and Sewage Disposal Committee and the taking away from the Corporation the functions relating to bulk supply of water and disposal of sewage.

Clause 72.—This clause seeks to omit the provisions of Chapters XIII and XIV of the principal Act relating to electricity supply and transport services. The Corporation will hereafter be concerned with the distribution of electricity at a voltage below 33 K.V.

Clauses 73 to 80 and 82.—These clauses seek to vest in the Mayor-in-Council certain important functions under Chapter XV of the principal Act relating to streets which are at present exercisable by the Commissioner and in certain cases provide for the Commissioner acting with the approval of the Mayor-in-Council.

Clause 84.—This clause seeks to empower the Mayor-in-Council to take special measures in the event of outbreak or threatened outbreak of dangerous diseases. This power is now exercisable by the Commissioner.

Clauses 85 to 90.—These clauses seek to vest in the Mayor-in-Council certain powers at present exercisable by the Commissioner under Chapter XX (Markets, Slaughter Houses, Trades and Occupations) and Chapter XXI (Improvement) of the principal Act.

Clause 125.—This clause provides that no court shall take cognizance of certain offences punishable under the Indian Penal Code or the Prevention of Corruption Act, 1947, alleged to have been committed by a councillor or an alderman except with the previous sanction of the Administrator and that the sanction of the authority referred to in section 6(1) (c) of the Prevention of Corruption Act, 1947, namely, the authority competent to remove the public servant from his office, will not be necessary for the purpose.

Clause 126.—This clause seeks to lay down the specific date by which the Corporation has to submit its annual reports. At present this date is prescribed by executive orders issued under section 501 of the principal Act.

Clause 129.—This clause seeks to enable the Corporation to entrust any of its functions in the rural areas to any Gaon Sabha and to provide for necessary funds to such Gaon Sabha for discharging such functions.

Clause 136.—This clause provides for an enhancement of penalty for taking connection from any municipal water work or drain without permission.

Clause 137.—This clause seeks to amend sub-section (2) of section 5 of the Delhi Development Act, 1957, to provide for representation on the Advisory Council of the Delhi Development Authority, to the Metropolitan Council of Delhi and the three statutory bodies for transport, electricity and water supply and sewage disposal in Delhi.

Clause 138.—This clause seeks to amend section 20 of the Indian Trusts Act, 1882, so as to confer the status of “trustee securities” on the debentures issued by the Municipal Corporation of Delhi.

Other clauses of the Bill seek to make amendments of either consequential or minor nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 13, 16, 24 and 29 of the Bill contain *inter alia* provisions authorising the Administrator to make rules with respect to the following:—

- (a) the rates at which honoraria or fees and allowances to be paid to the councillors and aldermen (clause 13);
- (b) the grant of facilities to the Mayor, the manner in which orders and other instruments made and executed in the name of the Corporation shall be authenticated, the transaction of business of the Mayor-in-Council and the allocation among the Mayor and the Deputy Mayors of the said business (clause 16);
- (c) the leave and leave allowances, superannuation or retirement, gratuity or pension and provident fund contribution payable in respect of the Commissioner who is not in Government service (clause 24);
- (d) the term of office of, the salaries and allowances payable to and other conditions of service of the chairman and members of the Municipal Service Commission, the manner in which the Commission will perform its duties and the number of members of staff of the Commission and their salaries and allowances and other conditions of service (clause 29).

2. Clauses 16, 22, 31, 39 and 56 empower the Corporation and the Mayor-in-Council to make regulations in respect of the following:—

- (a) the functions to be discharged by the Zonal Committees (Clause 16);
- (b) the procedure and conduct of business at meetings of Zonal Committees and other committees except the Advisory Committees (clause 22);
- (c) the conditions of service of certain employees of the Corporation (clause 31);
- (d) the form in which the budget estimate has to be prepared, the manner in which it is to be presented and adopted and the matters to be provided for in the budget estimate (clause 39);
- (e) the manner and the form in which the account of receipts and expenditure of the Corporation has to be kept (clause 56).

3. The above are matters of administrative detail and the delegation of legislative power is, therefore, of a normal character.

BILL No. 62 OF 1966

A Bill further to amend the Road Transport Corporations Act, 1950.

Be it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Road Transport Corporations (Amendment) Act, 1966.
Short title and
com-
mence-
ment
- 5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 1.

2. For sub-section (2) of section 1 of the Road Transport Corporations Act, 1950 (hereinafter referred to as the principal Act), the 64 of 1950. following sub-section shall be substituted, namely:—

“(2) It extends to the whole of India :—

Provided that in its application to the Union territory of 5 Delhi, it shall be subject to the modifications specified in the Schedule.”.

Insertion
of Sche-
dule.

3. After section 48 of the principal Act, the following Schedule shall be inserted, namely:—

“THE SCHEDULE

10

[See section 1 (2)]

1. Section 5—For section 5, substitute:—

Constitu-
tion of
Road
Transpor-
t Corpo-
ration.

“5. (1) A Corporation shall consist of a Chairman, to be appointed by the State Government, and five other members of whom—

15

(a) two shall be elected by the members of the Metropolitan Council of Delhi from among themselves;

(b) one shall be elected by the members of the Municipal Corporation of Delhi from among themselves;

(c) two [to be designated respectively as Member 20 (Finance) and Member (Engineering)] shall be appointed by the State Government.

(2) The State Government may, if it so thinks fit, appoint one of the elected members as the Vice-Chairman of the Corporation.

25

(3) The term of office of, and the manner of filling casual vacancies among, members of the Corporation shall be such as may be prescribed.

(4) The salary and allowances and other conditions of service of the Chairman, the Member (Finance) and the Member 30 (Engineering) and the allowances payable to the elected members of the Corporation shall be such as may be prescribed.

(5) The Chairman and any other member of the Corporation shall be eligible for re-appointment or, as the case 35 may be, re-elected.”.

2. *Section 6.*—Omit sub-section (2).

3. *Section 8.*—Omit the proviso.

4. *Section 12.*—

5 (a) In clause (b), after "Vice-Chairman", insert "or to the Member (Finance) or the Member (Engineering)";

(b) In clause (c), for "the Chief Executive Officer or General Manager or any other officer of the Corporation", substitute "any officer of the Corporation".

5. *Section 13.*—

10 For "the Chief Executive Officer or General Manager or any other officer of the Corporation", substitute "any officer of the Corporation".

6. *Sections 14 and 15.*—For sections 14 and 15, substitute—

15 "14. (1) A Corporation may appoint such number of officers and servants as it considers necessary for the efficient performance of its functions.

(2) The conditions of appointment and service and scales of pay of the officers and servants of a Corporation shall be such as may, subject to the provisions of section 34, be determined by regulations made under this Act.

15. (1) The Chairman of the Corporation shall be the executive head thereof and all officers and servants of the Corporation shall be subordinate to him.

(2) The Member (Finance) shall be the Chief Accounts Officer of the Corporation and shall have the right to record his views on every proposal involving expenditure from the fund of the Corporation prior to the consideration of such proposal by the Corporation.

30 (3) The Member (Engineering) shall be the Chief Mechanical Engineer of the Corporation.".

7. *New section 19A.*—After section 19, insert—

35 "19A. In the exercise of any of its powers under this Act, the Corporation shall not incur on any single work, service or scheme or for any other purpose a capital expenditure of more than five lakhs of rupees except with the previous approval of the Central Government.".

8. *Section 21.*—Omit "in consultation with the State Government".

9. *Section 23.*—(a) For sub-section (1), substitute—

“(1) The Central Government may provide to a Corporation any capital that may be required by the Corporation for the purpose of carrying on the undertaking or for purposes connected therewith on such terms and conditions, 5 not inconsistent with the provisions of this Act, as that Government may determine.”;

(b) In sub-section (2), for “the State Government”, substitute “the Central Government”;

(c) For sub-section (3), substitute— 10

“(3) The authorised capital of the Corporation shall be divided into such number of shares as the Central Government may determine and the number of shares which shall be subscribed by the Central Government and other parties (including persons whose undertakings have been acquired 15 by the Corporation) shall also be determined by the Central Government.”;

(d) In sub-section (6), for “the State Government”, substitute “the Central Government”.

10. *Sections 24, 25, 27 and 29.*—For “the State Government”, 20 wherever occurring, substitute “the Central Government”.

11. *Section 26.*—(a) In sub-section (1), for “the State Government”, substitute “the Central Government”;

(b) In sub-section (2), omit “the State Government and”.

12. *Section 28.*—(a) In sub-section (1), omit “and the State 25 Government” and “the State Government in consultation with”;

(b) In sub-section (2), omit “the State Government in consultation with”.

13. *Sections 33, 35 and 37.*—For “the Legislature of the State”, substitute “the Metropolitan Council of Delhi”. 30

14. *Section 39.*—In sub-section (2), for “the Central and the State Government”, substitute “the Central Government”.

Section 44.—In sub-section (2),—

(a) for clause (a), substitute—

“(a) the salary and allowances and other conditions 35 of service of the Chairman, the Member (Finance) and

the Member (Engineering) and the allowances payable to the elected members of the Corporation;";

(b) in clause (b), omit "members of the Corporation or other";

5 (c) omit clause (e);

(d) in clause (m), for "under section 40" substitute "under section 40 or section 48".

16. Section 45.—In clause (c) of sub-section (2), omit "other than the Chief Executive Officer or General Manager and the Chief Accounts Officer".

17. For sections 47, 47A and 48, substitute—

'47. On the establishment of a Corporation under section 3 (hereafter in this section and in section 48 referred to as "the new Corporation"),—

15 (a) all properties, movable and immovable, and all interests of whatsoever nature and kind therein belonging to or vested in the Municipal Corporation of Delhi for the purpose of the Delhi Transport Undertaking immediately before such establishment shall vest in the new Corporation;

20 (b) all debts, obligations and liabilities incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the Municipal Corporation of Delhi for the purpose of the Delhi Transport Undertaking and subsisting immediately before such establishment shall be deemed to have been incurred, entered into or engaged to be done by, with or for the new Corporation;

25 (c) all licences and permits granted to the Municipal Corporation of Delhi for the purpose of the Delhi Transport Undertaking and in force immediately before such establishment shall be deemed to have been granted to the new Corporation and shall have effect accordingly;

30 (d) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by,

Vesting
of certain
properties
in the
Corpora-
tion and
provisions
regarding
debts,
obliga-
tions, etc.

for or against the Municipal Corporation of Delhi for the purpose of the Delhi Transport Undertaking immediately before such establishment may be continued or instituted by, for or against the new Corporation;

(e) all bye-laws relating to transport services made 5 by the Municipal Corporation of Delhi under sub-section (1) of section 481 of the Delhi Municipal Corporation Act, 1957 and in force immediately before such 66 of 1957. establishment shall, in so far as they are not inconsistent with the provisions of this Act, continue 10 in force and be deemed to be regulations made by the new Corporation under section 45 unless and until they are superseded by regulations made under that section;

(f) notwithstanding anything contained in section 14, every officer and other employee of the Municipal 15 Corporation of Delhi appointed or deemed to be appointed for the purpose of the Delhi Transport Undertaking shall be transferred to, and become an officer or other employee of, the new Corporation with such designation as the new Corporation may determine and shall hold 20 office by the same tenure, on the same remuneration and under the same terms and conditions of service as he would have held the same if the new Corporation had not been established, and shall continue to be so unless and until such tenure, remuneration and terms and conditions of service are duly altered by the new Corporation: 25

Provided that the tenure, remuneration and the terms and conditions of service of any such officer or other employee shall not be altered to his disadvantage without the approval of the Central Government: 30

Provided further that any service rendered by any such officer or other employee before the establishment of the new Corporation shall be deemed to be service rendered under that Corporation.

48. (1) Where the sum total of the value of the properties and interests therein vested in the new Corporation under clause (a) of section 47 (hereafter in this section referred to as "the assets") exceeds the sum total of the debts, obligations and liabilities which are deemed to have been incurred by the new Corporation under clause (b) of that section 40 (hereafter in this section referred to as "the liabilities"), such excess shall be paid by the new Corporation to the Municipal

Corporation of Delhi on such terms and conditions as may be determined by the Central Government in this behalf.

5 (2) Where the sum total of the liabilities exceeds the sum total of the value of the assets, such excess shall be paid by the Municipal Corporation of Delhi to the new Corporation on such terms and conditions as may be determined by the Central Government in this behalf.

10 (3) The sum total of the value of the assets and the sum total of the liabilities shall be such amounts as may be arrived at by agreement between the Municipal Corporation of Delhi and the new Corporation and where no such agreement can be reached, the amounts shall be determined by an arbitral tribunal consisting of one nominee of the Municipal Corporation of Delhi, one nominee of the new Corporation and a Chairman to be nominated by the Chief Justice of the High Court exercising jurisdiction in relation to the Union territory of Delhi.

15 (4) An appeal shall lie to the aforesaid High Court against the decision of the tribunal and the order of the High Court on such appeal shall be final.'

STATEMENT OF OBJECTS AND REASONS

On the 18th August, 1965, in reply to a starred question in the Lok Sabha, the important changes contemplated in the organisational set up of the Municipal Corporation of Delhi, were indicated by the Government. It was then stated that the existing Delhi Transport Undertaking of the Municipal Corporation of Delhi would be replaced by a separate statutory body. This Bill has been brought forward to give effect to that proposal.

2. It is intended that the statutory body in place of the Delhi Transport Undertaking should be the Road Transport Corporation established under the Road Transport Corporation Act, 1950 (hereinafter referred to as the principal Act). At present the Road Transport Corporations Act, 1950, does not extend to the Union territory of Delhi. Accordingly the Bill seeks to extend this Act to the Union territory of Delhi subject to the modifications specified in the Schedule contained in the Bill.

3. The important modifications are as under:—

(1) Having regard to the special requirements of Delhi, paragraph 1 of the Schedule seeks to modify section 5 of the principal Act to provide *inter alia* that the Road Transport Corporation will consist of six members. Of these, two will be elected by the members of the Metropolitan Council of Delhi and one by the members of the Municipal Corporation of Delhi, from among themselves. The remaining three members, including the Chairman, will be appointed by the State Government.

(2) Paragraph 13 of the Schedule seeks to modify sections 33, 35 and 37 of the principal Act to provide for the laying of the accounts of the Road Transport Corporation and the audit report thereon; the returns, statistics and other information with respect to the property and activities of the Corporation; and the notification issued under section 37 assuming control over a part of the Undertaking of the Corporation, before the Metropolitan Council of Delhi.

(3) On the establishment of the Road Transport Corporation for Delhi, the properties of the Delhi Transport Undertaking and its liabilities as well as the officers and other employees of that Undertaking will stand transferred to the Road Transport Corporation. Provision has also been made for the

determination of the value of assets and sum total of the liabilities transferred to the Road Transport Corporation and the financial adjustments in respect thereof between that Corporation and the Municipal Corporation of Delhi. New sections 47 and 48 proposed to be inserted by paragraph 17 of the Schedule seek to make provisions for these purposes.

4. Opportunity has also been taken to extend the principal Act to the States of Jammu and Kashmir and Nagaland and the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu and Pondicherry.

NEW DELHI;

G. L. NANDA.

The 21st August, 1966.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF
THE CONSTITUTION OF INDIA

[Copy of letter No. 3/3/65-SR (R), dated the 23rd August, 1966 from Shri Jai Sukh Lal Hathi, Minister of State in the Ministry of Home Affairs to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the Bill further to amend the Road Transport Corporations Act, 1950, recommends, under clauses (1) and (3) of article 117 of the Constitution, the introduction of the said Bill in and its consideration by the Lok Sabha.

FINANCIAL MEMORANDUM

Under clause 2 of the Bill, the Road Transport Corporations Act, 1950, extends to the whole of India and in its application to the Union territory of Delhi, it shall be subject to the modifications specified in the Schedule.

Under section 23 of the Act as proposed to be modified by paragraph 9 of the Schedule to the Bill, the Central Government may provide to a Corporation any capital that may be required by it for the purpose of carrying on the undertaking or for purposes connected therewith. That section also makes provision for subscription by the Central Government in the shares issued by a Corporation for its authorised capital.

Section 24 of the Act as proposed to be modified by paragraph 10 of the Schedule authorises a Corporation to raise further capital with the approval of the Central Government by issue of new shares and makes provision for the subscription by the Central Government in the new shares.

Section 25 of the Act as proposed to be modified by paragraph 10 of the Schedule provides that the shares of a Corporation shall be guaranteed by the Central Government as to the payment of the principal and the payment of the annual dividend at such minimum rate as may be fixed by the Central Government at the time of issuing the shares.

To meet the capital requirements of the Delhi Transport Undertaking of the Municipal Corporation of Delhi, loans amounting to Rs. 90 lakhs and Rs. 130 lakhs were advanced to the Undertaking by the Central Government during the years 1964-65 and 65-66 respectively and a provision of Rs. 100 lakhs has been made for the purpose during the current financial year, *i.e.* 1966-67. Assistance on these lines by way of loan and/or participation in the shares issued, if any, by the new Corporation for its authorised capital or for raising further capital may have to be continued for a few years more to meet the requirements of that Corporation.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 44 of the Road Transport Corporations Act, 1950, empowers the State Government to make rules to give effect to the provisions of the Act. Sub-section (2) of that section, as proposed to be modified by paragraph 15 of the Schedule to the Bill, provides for the matters with respect to which such rules may be made. These matters *inter alia* include the salaries and allowances and other conditions of service of the Chairman, Member (Finance) and Member (Engineering) and the allowances payable to the elected members of the Corporation; the term of office of and the manner of filling casual vacancies among, members of the Corporation; the manner in which the shares of the Corporation shall be allotted, transferred or redeemed; and the manner in which the net profits of the Corporation shall be utilised.

2. Section 45 of the Act empowers the Corporation to make regulations not inconsistent with the Act and the rules made thereunder for the administration of the affairs of the Corporation. Section (2) of that section, as proposed to be modified by paragraph 16 of the Schedule to the Bill, provides for the matter with respect to which such regulations may be made. These matters *inter alia* include the manner in which and the purposes for which persons may be associated with the Corporation under section 10; the time and place of meetings of the Corporation and the procedure to be followed in regard to transaction of business at such meetings; and the issue of passes to the employees of the Corporation and other persons under section 19.

3. The matters with respect to which rules under section 44 and regulations under section 45 may be made are matters of a routine nature or of detail and the delegation of legislative power is, therefore, of a normal character.

BILL NO. 60 OF 1966

A Bill to validate the imposition and collection of certain taxes on the consumption or sale of electricity by the Delhi Municipal Corporation.

Be it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Delhi Municipal Corporation (Validation of Electricity Tax) Act, 1966.

Validation of levy, collection, etc., of tax on.

2. (1) Notwithstanding anything contained in section 150 read with sub-section (2) of section 109 of the Delhi Municipal Corporation Act, 1957, the resolution of the Delhi Municipal Corporation dated the 24th June, 1959, passed under sub-section (3) of section 150 aforesaid, in so far as the said resolution relates to the deter-

mination of the rates at which tax shall be leviable on the consumption or sale of electricity shall be deemed to have been passed in accordance with law and the rates specified in the said resolution in respect of tax on the consumption or sale of electricity shall be deemed to be, and to have been, the actual rates of the tax under the said Act with effect on and from the 1st day of July, 1959 and up to and inclusive of the 31st day of March, 1966.

(2) Notwithstanding anything contained in any judgment, decree or order of any court to the contrary, all taxes on the consumption or sale of electricity levied or collected or purporting to have been levied or collected in pursuance of the resolution referred to in sub-section (1) shall, for all purposes, be deemed to be, and to have always been, validly levied or collected, and accordingly—

(a) all acts, proceedings or things done or taken by the Delhi Municipal Corporation or by any other authority in connection with the levy or collection of such taxes shall, for all purposes be deemed to be, and to have always been, done or taken in accordance with law;

(b) no suit or other proceeding shall be maintained or continued in any court against the Government, the Delhi Municipal Corporation or any person or authority whatsoever for the refund of any taxes so paid; and

(c) no court shall enforce any decree or order directing the refund of any taxes so paid.

STATEMENT OF OBJECTS AND REASONS

By its resolution dated the 9th February, 1959, the Delhi Municipal Corporation decided to levy a tax on the consumption and sale of electricity under sections 113(2) (d) and 150(1) of the Delhi Municipal Corporation Act. This resolution was submitted under section 150(2) of that Act to the Central Government for its sanction and in conveying its sanction on the 20th June, 1959, the Government made certain modifications in the rates of tax on the assumption that its power to grant sanction to the proposals carried with it the power to make such modifications. Under section 150(3) of the said Act, the Corporation passed a second resolution on the 24th June, 1959, to the effect that the rates of tax as sanctioned by Government, should be the actual rates at which the tax would be leviable with effect from the 1st July, 1959. The levy of the electricity tax in terms of the second resolution was set aside by the Punjab High Court. The Court held that in according sanction to the first resolution of the Corporation, the Government had no power to modify or enhance the rates proposed by the Corporation in that resolution and that the Corporation in its second resolution could not adopt rates in excess of the rates determined in the first resolution. The Court also held that the liability to pay the tax could commence only from the 1st April, 1960.

2. The Bill proposes to validate the levy of the tax by the Corporation on the consumption or sale of electricity, in accordance with the rates specified in the afore-mentioned second resolution of the Corporation, with effect from the 1st July, 1959 and until the alteration of such rates in accordance with the provisions of the Delhi Municipal Corporation Act. These rates have been altered recently with effect from the 1st April, 1966.

NEW DELHI;

The 11th August, 1966.

JAISUKHLAL HATHI.

BILL NO. 64 OF 1966

A Bill further to amend the Electricity (Supply) Act, 1948.

Be it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

- 54 of 1948. 5. 1. This Act may be called the Electricity (Supply) Second Amendment Act, 1966. Short title.
- 66 of 1957. 10. 2. After section 1 of the Electricity (Supply) Act, 1948 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:— Insertion of new section 1A.
- “1A. The provisions of this Act relating to State Electricity Boards, which ceased to have effect in the Union territory of Delhi with effect from the 7th April, 1958, by virtue of section 286 of the Delhi Municipal Corporation Act, 1957, shall revive and come into force in that Union territory on such date as the

to revive
in the
Union
territory
of Delhi
and apply
thereto
with
certain
modifica-
tions.

Insertion
of new
Tenth
Schedule.

State Government may, by notification in the Official Gazette, appoint, so, however, that in their application to that Union territory, the said provisions shall be subject to the modifications specified in the Tenth Schedule."

3. After the Ninth Schedule to the principal Act, the following 5 Schedule shall be inserted, namely:—

'THE TENTH SCHEDULE

(See section 1A)

1. Section 5—

For section 5, substitute—

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"5. (1) The State Government shall, as soon as may be, after the issue of the notification under section 1A, constitute, by notification in the Official Gazette, a State Electricity Board under such name as shall be specified in the notification.

15

(2) The Board shall consist of a Chairman to be appointed by the State Government and five other members, of whom—

(a) two shall be elected by the members of the Metropolitan Council of Delhi from among themselves; 20

(b) one shall be elected by the members of the Municipal Corporation of Delhi from among themselves;

(c) two shall be appointed by the State Government.

(3) The Chairman and the two members appointed by the State Government shall be full time members and of 25 them—

(a) one shall be a person who has experience of, and has shown capacity in, commercial matters and administration;

(b) one shall be an electrical engineer of wide experience; and 30

(c) the other shall be a person who has experience of accounting and financial matters in a public utility undertaking, preferably an electricity supply undertaking.

5 (4) A person shall be disqualified for being appointed as a member of the Board, if he is a member of Parliament or of any State Legislature.

10 (5) No act done by the Board shall be called in question on the ground only of the existence of any vacancy in, or any defect in the constitution of, the Board.”.

2. Sections 6 and 7—

Omit sections 6 and 7.

3. Section 8—

15 For “re-appointment”, substitute “re-appointment or, as the case may be, re-election”.

4. Section 10—

(a) in sub-section (1), in clause (d), omit “or any local authority”;

20 (b) in sub-section (3), for “appointed”, substitute “appointed or, as the case may be, elected”;

(c) in sub-section (4), for “re-appointment”, substitute “re-appointment or re-election”;

25 (d) in sub-section (5), for “and appoint a Chairman and members in their places”, substitute “and re-constitute the Board in accordance with the provisions of section 5”.

5. Section 11—

For “or any other member of the Board”, substitute “or any other member of the Board appointed by the State Government”

6. Section 16—

30 (a) for sub-section (1), substitute—

“(1) The State Government shall constitute a State Electricity Consultative Council for the State.”;

(b) in sub-section (2), omit “or the State Governments concerned”, wherever occurring, and “or think”.

7. Section 18—

After clause (a), insert—

5

“(aa) to carry out any scheme for the generation and supply of electricity prepared and sanctioned in relation to the Union territory of Delhi or any part thereof by any competent authority before the constitution of the Board and execute any work undertaken in pursuance of any such scheme;”.

8. New section 18A—

After section 18, insert—

10

“18A. Without prejudice to the provisions of section 18, the Board shall be bound to provide bulk supply of electricity for the Municipal Corporation of Delhi, the New Delhi Municipal Committee and the Military Engineer Services, Delhi Cantonment, up to the quantity demanded by each of 15 these authorities or, if the total demand is in excess of the available supply, up to such proportion in the case of each of these authorities as the Board may, with the approval of the State Government, determine.”.

Board to provide bulk supply of electricity for Municipal Corporation of Delhi, New Delhi Municipal Committee and Military Engineer Services, Delhi Cantonment.

9. Section 60—

20

In sub-section (1) and (2), for “under sub-section (4) of section 1”, substitute “under section 1A”.

10. Section 61—

(a) in sub-section (3), for “on the table of the House or, as the case may be, Houses of the State Legislature”, substitute 25 “before the Metropolitan Council of Delhi”;

(b) in sub-section (4), for “State Legislature”, substitute “Metropolitan Council of Delhi”.

11. Section 63—

Omit “with the approval of the State Legislature.”

12. Section 65—

30

In sub-section (3), omit “with the approval of the State Legislative Assembly.”.

13. Section 66—

Omit the proviso.

35

14. Section 69—

In clause (a) of sub-section (5), "State Legislature", substitute "Metropolitan Council of Delhi".

15. Section 75—

5 In sub-section (1A), for "State Legislature", substitute "Metropolitan Council of Delhi".

16. Section 78—

In clause (a) of sub-section (2), for "re-appointment", substitute "re-appointment or re-election".

10 17. New sections 83A, 83B, and 83C—

After section 83, insert—

15 83A. As soon as may be after the issue of the notification under section 1A, but before the constitution of the Board under section 5, the State Government shall, after consultation with the Municipal Corporation of Delhi, determine—

Power of
State
Govern-
ment to
determine
stores,
articles,
etc.

20 (a) which stores, articles and other movable properties belonging to, or vested in, the Municipal Corporation of Delhi for the purpose of the Delhi Electric Supply Undertaking, are being used or utilised, or are required, by the Municipal Corporation of Delhi, for the generation of power or for the maintenance, repair or extension of generating stations, main transmission lines of 33 k.v. and above and sub-stations receiving power from such trans ission lines;

25 (b) which debts, obligations and liabilities have been incurred, which contracts have been entered into and what all matters and things have been engaged to be done by, with or for the Municipal Corporation of Delhi in relation to the stores, articles and other movable properties referred to in clause (a) or in connection with the generation of power or in connection with the main-tenance, repair or extenion of generating stations, main transmission lines of 33 k.v. and above and sub-stations receiving power from such transmission lines ;

30 (c) which officers and other employees of the Municipal Corporation of Delhi are serving that Corporation and are required in connection with the generation of

power or in connection with the maintenance, repair or extension of generating stations, main transmission lines of 33 k.v. and above and sub-stations receiving power from such transmission lines or in connection with any matter incidental to such generation, maintenance, repair or extension. 5

Vesting
of certain
properties
in the
Board,
provision
regarding
debts,
obligations,
etc.

83B. On the constitution of a Board under section 5,—

(a) all generating stations, main transmission lines of 33 k.v. and above and works pertaining thereto, all sub-stations receiving power from such transmission lines and all interests of whatsoever nature and kind therein, belonging to or vested in the Municipal Corporation of Delhi for the purpose of the Delhi Electric Supply Undertaking immediately before such constitution, shall vest in the Board; 15

(b) all stores, articles and other movable properties referred to in clause (a) of section 83A shall vest in the Board;

(c) all debts, obligations and liabilities, all contracts and all matters and things referred to in clause 20 (b) of section 83A and subsisting immediately before such constitution shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board;

(d) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the Municipal Corporation of Delhi immediately before such constitution in relation to the properties and interests therein vested in the Board under clauses (a) and (b) may be continued or instituted by or against the Board; 25

(e) all bye-laws relating to electric supply made by the Municipal Corporation of Delhi under sub-section (1) of section 481 of the Delhi Municipal Corporation Act, 1957, and in force immediately before 35 66 of 1957, such constitution shall, in so far as they relate to any matter pertaining to the functions of the Board and are not inconsistent with the provisions of this Act, continue to be in force and be deemed to be regulations made by the Board under section 79 unless and 40 until they are superseded by regulations made under that section;

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(f) notwithstanding anything contained in section 18, every officer and other employee of the Municipal Corporation of Delhi referred to in clause (c) of section 83A shall be transferred to and become an officer or other employee of, the Board with such designation as the Board may determine and shall hold office by the same tenure, on the same remuneration, and under the same terms and conditions of service as he would have held the same if the Board had not been constituted, and shall continue to be so unless and until such tenure, remuneration and terms and conditions of service are duly altered by the Board:

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Provided that the tenure, remuneration and terms and conditions of service of any such officer or other employee shall not be altered to his disadvantage without the approval of the Central Government:

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Provided further that any service rendered by any such officer or other employee before the constitution of the Board shall be deemed to be service rendered under the Board;

66 of 1957.

9 of 1910.

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(g) the Municipal Corporation of Delhi shall, in respect of the supply of electricity at a voltage below 33 k.v. in Delhi [as defined in clause (10) of section 2 of the Delhi Municipal Corporation Act, 1957], continue to have all the powers and obligations of a licensee under the Indian Electricity Act, 1910, and this Act shall be deemed to be the licence of the Municipal Corporation of Delhi for such supply, for the purposes of that Act.

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83C. (1) Where the sum total of the value of the properties and interests therein vested in the Board under clauses (a) and (b) of section 83B (hereafter in this section referred to as 'the assets') exceeds the sum total of the debts, obligations and liabilities which are deemed to have been incurred by the Board under clause (c) of that section (hereafter in this section referred to as 'the liabilities'), such excess shall be treated as a loan made to the Board by the Municipal Corporation of Delhi and such loan shall be re-paid by the Board to the Municipal Corporation of Delhi on such terms and conditions as may be determined by the Central Government in this behalf.

Payment
of
value of
assets and
liabilities.

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(2) Notwithstanding anything contained in sections 67 and 68, the loan referred to in sub-section (1) shall be repaid by the Board to the Municipal Corporation of Delhi from the depreciation reserve created under section 68 and any further amount that may be necessary for such payment shall be paid from the balance referred to in clause (x) of section 67.

(3) Where the sum total of the liabilities exceeds the sum total of the value of the assets such excess shall be paid by the Municipal Corporation of Delhi to the Board on such terms and conditions as may be determined by the Central Government in this behalf.

(4) If there is a dispute between the Municipal Corporation of Delhi and the Board relating to the value of the assets or the sum total of the liabilities, such dispute shall be determined by arbitration.

(5) For the purpose of this section, "value"—

(a) in relation to any generating station or main transmission line, means the value of such generating station or main transmission line as determined in accordance with the provisions of the Fourth Schedule;

(b) in relation to any other property or interest therein, means such sum as may be certified by an auditor appointed by the State Government in this behalf to have been the amount properly incurred on and incidental to the acquisition of such property or interest.".

STATEMENT OF OBJECTS AND REASONS

On the 18th August, 1965, in reply to a Starred Question in the Lok Sabha, the important changes contemplated in the organisational set up of the Municipal Corporation of Delhi were indicated by the Government. It was then stated that the existing Delhi Electric Supply Undertaking would be replaced by a statutory Board which would generate power and make bulk supplies to the local bodies for distribution to consumers. This Bill has been brought forward to give effect to that proposal.

2. Under section 286 of the Delhi Municipal Corporation Act, 1957, the provisions of the Electricity (Supply) Act, 1948, relating to State Electricity Boards ceased to have effect in the Union territory of Delhi from the date the Corporation was established. Clause 2 of the Bill seeks to revive and bring into force these provisions in the Union territory of Delhi subject to the modifications specified in the Schedule to the Bill. The important modifications are as follows:—

(1) Having regard to the special requirements of Delhi, paragraph 1 of the Schedule seeks to modify section 5 of the principal Act so as to provide that the Board will consist of six members. Of these, two will be elected by the members of the Metropolitan Council of Delhi and one by the members of the Municipal Corporation of Delhi, from among themselves. The remaining three members, including the Chairman, will be appointed by the State Government.

(2) Paragraphs 10, 14 and 15 of the Schedule seek to modify the provisions of sections 61, 69 and 73 of the Electricity (Supply) Act, 1948 so as to provide for the annual financial statement, the accounts together with the audit report thereon and the annual reports, of the Board being placed before the Metropolitan Council of Delhi.

(3) The functions of generation and bulk supply of electricity of the existing Delhi Electric Supply Undertaking will be taken over by the Board. Provision has been made in the new section 83B proposed to be inserted by paragraph 17 of the Schedule, to the effect that all generating stations, transmission lines of 33 KV and above and all other works pertain-

ing thereto, including sub-stations receiving supplies from such transmission lines, will be vested in the Board and all debts, liabilities and obligations incurred by the Municipal Corporation of Delhi in relation to such assets would be deemed to have been incurred by the Board. Provision has also been made in that section for the allocation of the officers and other employees of the Delhi Electric Supply Undertaking between the Corporation and the Board. Paragraph 17 of the Schedule also seeks to insert another new section 83C to make provision for determination of the value of assets transferred to the Board and for the financial adjustment between the Board and the Corporation regarding the difference between the value of assets and the sum total of liabilities.

NEW DELHI;

G. L. NANDA.

The 21st August, 1966.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF
THE CONSTITUTION OF INDIA

[Copy of letter No. 3/3/66-SR, dated the 23rd August, 1966 from Shri Jai Sukh Lal Hathi, Minister of State in the Ministry of Home Affairs to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the Bill further to amend the Electricity (Supply) Act, 1948, recommends, under clauses (1) and (3) of article 117 of the Constitution, the introduction of the said Bill in and its consideration by the Lok Sabha.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the revival and coming into force of the provisions relating to State Electricity Boards, contained in the Electricity (Supply) Act, 1948, with the modifications specified in the Tenth Schedule.

Section 16 of the Act provides for the constitution of a State Electricity Consultative Council consisting of members of the Board and such other persons, being not less than seven and not more than fifteen, as the State Government may appoint after consultation with bodies or representatives of the interests specified therein. Section 17 of the Act makes provision for constitution for Local Advisory Committees for such areas as the State Government may determine. Under section 78 of the Act, the State Government may make rules providing *inter alia* for the terms and conditions of appointment of members of the State Electricity Consultative Council and Local Advisory Committees.

Section 60 of the Act, as proposed to be modified by paragraph 9 of the Schedule to the Bill, provides that all expenditure which the State Government (Central Government in the case of the Union territory of Delhi) may, not later than two months after the first constitution of the Board, declare to have been incurred before the issue of the notification under section 1A on capital account in connection with the purposes of the Act shall be deemed to be a loan advanced to the Board under section 64.

Section 63 of the Act as modified by paragraph 11 of the Schedule provides for making of subventions to the Board on such terms and conditions as the State Government may determine. Section 64 of the Act provides that the State Government may from time to time advance loans to the Board on such terms and conditions as that Government may determine.

Section 66 of the Act provides for guarantee of the payment of the principal and interest of any loan proposed to be raised by the Board or of either the principal or the interest.

The rules made under section 78 of the Act regarding the terms and conditions of appointment of members of a State Electricity Consultative Council and Local Advisory Committees may also provide for payment of allowances to these members for attending the meetings of the Council and the Committees. It is estimated that the expenditure on this account will be about rupees two thousand per annum.

No expenditure is likely to be incurred under section 60 as the functions proposed to be entrusted to the Board would continue to be discharged by the Delhi Electric Supply Undertaking until they are transferred to the Board. No subventions have been made by the Central Government to that Undertaking so far. Nor is it likely that any subvention will be made to the Board. To meet the capital requirements of the Undertaking, loans amounting to Rs. 4,15,68,400 and Rs. 6,83,40,000 were advanced to it by the Central Government during the years 1964-65 and 1965-66 respectively and a provision of Rs. 700 lakhs has been made for that purpose during the current financial year, *i.e.* 1966-67. A substantial part of such loan assistance will have to be made available to the Board when it is constituted, to meet its requirements.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 78 of the Electricity (Supply) Act, 1948 provides for the making of rules to give effect to the provisions of the Act and sub-section (2) of that section provides for the matters with respect to which rules may be made. These matters *inter alia* include the powers of the Chairman and the term of office of the Chairman and other members of the Board, the conditions under which they shall be eligible for re-appointment and their remuneration, allowances and other conditions of service; the conditions subject to which the Board may borrow under section 65; the manner in which stock issued by the Board shall be issued, transferred, dealt with and redeemed; and the business of the Board upon which the Local Advisory Committees concerned shall be consulted. Paragraph 15 of the Schedule to the Bill seeks to modify sub-section (2) of section 78 so as to empower the State Government to make rules also regarding the conditions under which the elected members of the Board shall be eligible for re-election.

2. Section 79 of the said Act empowers the Board to make regulations not inconsistent with the Act and the rules made thereunder to provide for all or any of the matters specified therein. These matters *inter alia* include the administration of the funds and other property of the Board and the maintenance of its accounts; the summoning and holding of meetings of the Board, the time and place at which such meetings shall be held, the conduct of business thereat and the number of members necessary to constitute a quorum; and the duties of officers and servants of the Board and their salaries, allowances and other conditions of service.

3. The matters with respect to which rules under section 78 (including the conditions under which the elected members of the Board shall be eligible for re-election and the regulations under section 79 may be made are matters of a routine nature or of detail and the delegation of legislative power is therefore, of a normal character.

BILL NO. 63 OF 1966

A Bill to provide for the constitution of a Board for the maintenance, development and regulation of water supply and sewerage services in the Union territory of Delhi and for matters connected therewith.

Be it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

CHAPTER I**PRELIMINARY**

Short title,
extent and
commencement.

1. (1) This Act may be called the Delhi Water Supply and Sewage Disposal Act, 1966.
(2) It extends to the whole of the Union territory of Delhi.
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) "Board" means the Delhi Water Supply and Sewage Disposal Board constituted under section 3;

(b) "Delhi" means the Union territory of Delhi;

5 (c) "main" means a pipe laid for the purpose of giving a general supply of water as distinct from a supply to individual consumers and includes any apparatus used in connection with such pipe;

10 (d) "prescribed" means prescribed by rules made under this Act;

(e) "receiving body" means—

(i) the Municipal Corporation of Delhi; or

(ii) the New Delhi Municipal Committee; or

(iii) the Military Engineer Services, Delhi Cantonment;

15 66 of 1957. (f) words and expressions used but not defined in this Act and defined in the Delhi Municipal Corporation Act, 1957, shall have the meanings respectively assigned to them in that Act.

CHAPTER II

THE DELHI WATER SUPPLY AND SEWAGE DISPOSAL BOARD

20 3. (1) With effect from such date as the Administrator may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted a Board to be called the Delhi Water Supply and Sewage Disposal Board.

Constitu-
tion and
incorpo-
ration of
Board.

25 (2) The Board shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and shall, by the said name, sue and be sued.

4. (1) The Board shall consist of a Chairman to be appointed by the Administrator and five other members of whom—

Composi-
tion of
Board.

30 (a) two shall be elected by the members of the Metropolitan Council of Delhi from among themselves;

(b) one shall be elected by the members of the Municipal Corporation of Delhi from among themselves;

- (c) two shall be appointed by the Administrator.
- (2) Of the two members referred to in clause (c) of sub-section (1),—
- (a) one shall be an engineer with experience in public health engineering and shall be designated as Member (Engineering); and
 - (b) the other shall be a person with experience in financial administration and shall be designated as Member (Finance).
- (3) The Chairman, the Member (Engineering) and the Member (Finance) shall be appointed with the previous approval of the Central Government.
- (4) The appointment of the Chairman under sub-section (1) and of the Member (Engineering) and the Member (Finance) under clause (c) of that sub-section shall be made, and the election of the members under clauses (a) and (b) of that sub-section shall be completed, before the issue of the notification constituting the Board under sub-section (1) of section 3.
- Term of office and salaries and allowances of members, etc.**
5. (1) The term of office of, and the manner of filling casual vacancies among, members of the Board shall be such as may be prescribed.
- (2) The salaries and allowances and other conditions of service of the Chairman the Member (Engineering) and the Member (Finance) and the allowances payable to the elected members, of the Board shall be such as may be prescribed and such salaries and allowances shall be paid out of the fund of the Board.
- (3) The Chairman and any other member of the Board shall be eligible for re-appointment or, as the case may be, re-election.
- Resignation of Office by Chairman or any other member.**
6. The Chairman or any other member of the Board may resign his office by giving notice in writing to the Administrator and, on such resignation being accepted by the Administrator, shall be deemed to have vacated his office.
- Disqualification for being chosen as, or for being, member of Board.**
7. A person shall be disqualified for being chosen as, or for being, a member of the Board—
- (a) if he is of unsound mind and stands so declared by a competent court; or
 - (b) if he is an undischarged insolvent; or

- (c) if he has been convicted of an offence involving moral turpitude; or
- (d) if he has, directly or indirectly, any interest in any subsisting contract made with, or in any work being done for, the Board except as a shareholder (other than a Director) in an incorporated company, provided that where he is a shareholder he shall disclose to the Administrator the nature and extent of shares held by him in such company.
8. The Administrator may remove from office the Chairman or Removal of Chairman and other members from office.
to any other member of the Board who—
- (a) is or becomes subject to any of the disqualifications mentioned in section 7; or
- (b) without excuse, sufficient in the opinion of the Administrator, is absent from more than four consecutive meetings of the Board:
- Provided that the Chairman or the Member (Engineering) or the Member (Finance) shall not be removed from office except with the previous approval of the Central Government.
9. No act or proceeding of the Board shall be invalid by reason Vacancies, etc., not to invalidate acts and proceedings of Board.
only of the existence of any vacancy among its members or any defect in the constitution thereof.
10. (1) The Board shall meet at such times and places and shall, subject to the provisions of sub-sections (2) and (3), observe such rules of procedure in regard to transaction of business at its meetings (including the quorum at meetings) as may be provided by Meetings of Board.
regulations made under this Act.
- (2) The Chairman or in his absence any member chosen by the members present from among themselves, shall preside at a meeting of the Board.
- 30 (3) All questions at a meeting of the Board shall be decided by a majority of votes of the members present and voting and in the case of an equality of votes, the Chairman or, in his absence, the person presiding, shall have and exercise a casting vote.
11. (1) The Board may associate with itself, for any particular purpose in such manner as may be provided by regulations made under this Act, any person whose assistance or advice it may Temporar-
y association of persons

with
Board for
particular
purposes.

desire in exercising or discharging any of its powers or functions under this Act.

(2) A person associated with it by the Board under sub-section (1), for any purpose shall have a right to take part in the discussions of the Board relevant to that purpose, but shall not have a 5 right to vote at a meeting of the Board.

Power to
appoint
commit-
tees and to
delegate
functions
to Chair-
man, etc.

12. The Board may, from time to time, by resolution passed at a meeting, —

(a) appoint committees consisting of its members, and whenever necessary, of other persons having knowledge and 10 experience in public health or public health engineering, for discharging such of its functions as may be specified in the resolution;

(b) delegate to the Chairman, or the Member (Engineering), or the Member (Finance), subject to such conditions and limita- 15 tions, if any, as may be specified in the resolution, such of its powers and duties as it may think fit;

(c) authorise any officer of the Board, subject to such conditions and limitations, if any, as may be specified in the re- 20 solution, to exercise such powers and perform such duties as it may deem necessary for the efficient day to day administration of its business.

Authenti-
cation of
orders and
other in-
struments
of Board.

13. All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf and all other instruments issued by the 25 Board shall be authenticated by the signature of an officer of the Board authorised in like manner in this behalf.

Powers of
Chairman,
Member
(Engi-
neering),
etc.

14. (1) The Chairman shall be the executive head of the Board and all officers and other employees of the Board shall be subordi- 30 nate to him.

(2) The Member (Engineering) shall be the Chief Engineer of the Board.

(3) The Member (Finance) shall be the Chief Accounts Officer of the Board and shall have the right to record his views on every proposal involving expenditure from the fund of the Board prior 35 to the consideration of the proposal by the Board.

Officers
and em-
ployees
of Board.

15. (1) The Board may appoint such number of officers and other employees as it may consider necessary for the efficient discharge of its functions.

(2) The conditions of appointment and service and the scales 40 of pay of the officers and other employees of the Board shall be such as may be provided by regulations made under this Act.

16. No person who has, directly or indirectly, by himself or as a partner or agent, any share or interest in any contract, by or on behalf of the Board shall become, or remain as, an officer or other employee of the Board.

General disqualification of all officers and other employees.

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CHAPTER III

POWERS, DUTIES AND FUNCTIONS OF THE BOARD

General

17. (1) The Board shall be charged with the general duty of providing bulk supply of water to the receiving bodies and of making adequate provision for disposal of the sewage delivered to it by the Municipal Corporation of Delhi and the New Delhi Municipal Committee and for the efficient performance of such duty, the Board shall exercise such powers and discharge such functions as are conferred or imposed on it by or under this Act.

15 (2) Without prejudice to the provisions of sub-section (1), it shall be the duty of the Board to take steps, from time to time,—

- (a) for ascertaining the sufficiency and wholesomeness of water supplied to the receiving bodies at the place or places specified in the First Schedule;
- 20** (b) for preparing and carrying out schemes for the supply of wholesome water within Delhi;
- (c) for discharging such other functions as the Administrator may, from time to time, by order, direct the Board to discharge.

25 18. The Administrator may require the Board to—

- (a) carry out a survey of the existing consumption of and demand for water supplies in Delhi and of the water resources in or available for Delhi;
- 30** (b) prepare an estimate of the future water supply requirements of Delhi;
- (c) carry out a survey of the existing quantity of, sewage disposed of and the manner in which it is disposed of;
- (d) formulate proposals as to—
 - (i) the existing or future water supply requirements of Delhi;
 - 35** (ii) the existing or future sewage disposal requirements of Delhi (except Delhi Cantonment) including pro-

Power to require Board to carry out survey and formulate proposals.

posals for the manner in which and the place or places at which such sewage should be carried, treated and disposed of.

Power to construct additional works.

19. If the Board is of opinion that the works and other properties for the time being vested in the Board are inadequate for the purpose of efficient supply of water or for the purpose of efficient disposal of sewage under this Act, it may take steps in accordance with the provisions of this Act for the construction of additional works, whether within or without Delhi, and for the acquisition of additional properties for such works. 5 10

Board to secure wholesomeness of water.

20. The Board shall secure that the water in any water works belonging to it from which water is supplied to the receiving bodies is wholesome.

Power to lay mains

21. (1) The Board may lay a main—

(a) in any street, and

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(b) with the consent of every owner and occupier of any land not forming part of a street, in, over or on, that land, and may, from time to time, inspect, repair, alter or renew or may at any time remove any main so laid whether by virtue of this section or otherwise:

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Provided that where a consent required for the purpose of this section is withheld, the Board may, after giving the owner or occupier of the land a written notice of its intention so to do, lay the main in, over or on that land even without such consent.

(2) Where the Board, in exercise of the powers under this section, lays a main in, over or on, any land not forming part of a street or inspects, repairs, alters, renews or removes a main so laid in, over or on any such land, the Board shall pay compensation to every person interested in that land for any damage done to or injurious affection of that land by reason of the inspection, laying, 25 30 repair, alteration, renewal or removal of the main.

Water Supply

Board to make bulk supply of water to receiving bodies.

22. The Board shall be bound to supply to each receiving body at the place or places specified in respect of such body in the First Schedule or at such other place or places as may be agreed between the Board and such body, water in bulk up to the amount demanded by such body or, if the total demand of the receiving bodies is in excess of the available supply, up to such proportion in the case of each receiving body as the Board may determine: 35

Provided that the quantity of water supplied *per capita* to the New Delhi Municipal Committee by the Municipal Corporation of Delhi immediately before the commencement of this Act shall not be reduced after such commencement except with the previous permission of the Administrator.

23. (1) Each receiving body shall pay for the water supplied to it the actual cost of supplying such water at a rate in respect of each thousand gallons of water supplied (hereinafter referred to as "the final issue rate") calculated in the manner prescribed in this section.

(2) The final issue rate shall be calculated for each year after the accounts of the year have been closed by dividing the amount of expenditure incurred by the Board in relation to water supply during the year by the number of thousand gallons of water supplied by the Board during that year to the receiving bodies.

(3) For the purpose of sub-section (2), there shall be taken into account any sum carried in the year to the credit of the development fund referred to in sub-section (1) of section 37 and such items of expenditure incurred by the Board as may be determined by rules made by the Administrator in this behalf.

24. (1) Pending the calculation of the final issue rate for any year, payments of water supplied during that year to any of the receiving bodies shall be made provisionally at an estimated rate (hereinafter referred to as "the collecting rate").

(2) The collecting rate shall be calculated at the time of framing the budget estimate of the Board for the year by dividing the sum of the amount of the estimated expenditure of the Board in relation to water supply in that year and of an addition of five per cent. of that amount by the number of thousand gallons of water estimated as likely to be supplied during that year.

(3) If any difference of opinion arises as to the supply of water to be estimated for the purpose of ascertainment of the collecting rate, the decision of the Administrator thereon shall be final.

(4) Every receiving body shall pay on demand after the close of each quarter of each year, the cost of the water supplied to it in that quarter calculated at the collecting rate.

(5) Nothing in this section shall preclude the Board from arranging, with the consent of any receiving body and in accordance with any order issued by the Administrator, for advance payments by such body of the cost (calculated at the collecting rate) of such

quantities of water as are likely to be supplied to each of the receiving bodies in each quarter or for such other period as may be determined by the Administrator.

Final settlement of accounts.

25. (1) If the final issue rate for any year exceeds the collecting rate determined for that year, the balance due shall be recovered from the receiving body concerned.

(2) If the final issue rate is less than the collecting rate, the excess collection shall be refunded to the receiving body concerned.

Supply of meters.

26. (1) For the purpose of measuring and recording the amount of water supplied to each receiving body, the Board shall cause to be affixed meters at the points of junction between the communication pipes of the receiving body concerned and the mains or pipes belonging to the Board and the cost of such meters shall be borne by the Board.

(2) It shall be presumed, until the contrary is proved, that the quantity of water supplied through any connection is the quantity indicated by the meter fixed to that connection.

Testing of meters.

27. (1) If any receiving body desires to have any meter tested, it may make an application in this behalf accompanied by a fee of two hundred and fifty rupees to the Board and on receipt of such application and fee, the Board shall forthwith cause the meter to be tested at a time and place of which due notice shall have been given to such receiving body.

(2) If the meter is found, on being tested, to be incorrect, the Board shall be bound to replace or repair the same and to refund the fee paid under sub-section (1) together with such sum, if any, as is proved to the satisfaction of the Board to have been paid in excess by reason of the incorrectness of the meter.

Sewage Disposal

Board to specify places for delivery of sewage.

28. The Board may specify the place or places at which all sewage to be disposed of by the Municipal Corporation of Delhi or the New Delhi Municipal Committee shall be delivered to it.

Provided that any place which, before the commencement of this Act, was used for the delivery of sewage by the New Delhi Municipal Committee to the Municipal Corporation of Delhi shall be deemed to be a place specified for the purpose aforesaid under this section.

29. On and from such date as may be appointed by the Administrator in this behalf, no sewage shall be discharged into any water course until it has been so treated as not to affect prejudicially the purity and quality of the water into which it is discharged.

Restriction regarding discharge of sewage.

30. (1) The Board shall be bound to receive in bulk from the Municipal Corporation of Delhi and the New Delhi Municipal Committee all sewage delivered to it by the said Corporation or Committee and dispose of such sewage:

Board to receive sewage.

10 Provided that neither the Municipal Corporation of Delhi nor the New Delhi Municipal Committee shall execute any major work calculated to increase the normal discharge of sewage without the concurrence of the Board.

15 (2) Sewage received in pursuance of the provisions of sub-section (1) shall be the property of the Board and any income derived from the sale of affluent or sludge shall be credited to the fund of the Board.

20 (3) If any disagreement arises between the Board and the Municipal Corporation of Delhi or the Board and the New Delhi Municipal Committee as to the effect of the execution of any work or the doing of anything, the matter shall be referred to the Administrator whose decision thereon shall be final.

31. (1) Subject to the provisions of section 43, the total net cost of the disposal of all sewage shall be borne by the Municipal Corporation of Delhi and the New Delhi Municipal Committee in such proportion as the Administrator may from time to time determine.

Payment of cost of disposal of sewage.

25 (2) In determining the total net cost of disposal of all sewage, the Administrator shall take into account such items of expenditure incurred by the Board as may be determined by rules made by the Administrator in this behalf.

32. (1) The estimated net cost of the disposal of sewage increased by five per cent. shall be payable on demand by the Municipal Corporation of Delhi and the New Delhi Municipal Committee after the close of each quarter of each year in accordance with the proportion determined under sub-section (1) of section 31.

Manner of payment by the Municipal Corporation of Delhi and New Delhi

35 (2) If the sum so paid by the Municipal Corporation of Delhi or the New Delhi Municipal Committee in any year exceeds or is less than the sum payable by it on the basis of the actual cost as determined under section 31, the payments to be made by the Municipal Committee of

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proportion of cost of disposal of sewage.

Municipal Corporation of Delhi or the New Delhi Municipal Committee, as the case may be, in the following year shall be adjusted accordingly.

(3) Nothing in this section shall preclude the Board from arranging, with the consent of the Municipal Corporation of Delhi or the New Delhi Municipal Committee and in accordance with any orders issued by the Administrator, for advance payment by the Municipal Corporation of Delhi or the New Delhi Municipal Committee, as the case may be, of such portion of the cost of the disposal of sewage as is likely to be borne by it in such quarter or such other period as may be determined by the Administrator.

CHAPTER IV

REVENUE, FINANCE, ACCOUNTS, AUDIT AND BUDGET

Fund of Board.

33. (1) The Board shall have its own fund and all receipts of the Board shall be credited thereto and all payments by the Board shall be made therefrom.

(2) Except as otherwise directed by the Administrator, all moneys belonging to the fund shall be deposited either in the Reserve Bank of India or with the agents of the Reserve Bank of India or invested in such securities as may be approved by the Administrator.

Sources of fund.

34. The fund required by the Board may be raised from the following sources, namely:—

- (a) grants from the Central Government or any other source;
- (b) loans from the Central Government or any other source;
- (c) charges levied and collected under this Act.

Borrowing powers.

35. The Board may, with the previous approval of the Central Government, borrow money in the open market or otherwise for the purpose of raising its working capital or for the purpose of meeting any expenditure of a capital nature.

Grants by Central Government to the Boards

36. For the purpose of enabling the Board to discharge its functions under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Board in each year such sums of money as that Government considers necessary by way of grant, loan or otherwise.

Provision for depreciation and for development, re-service and other funds.

37. (1) The Board shall make such provisions for depreciation and for development, reserve and other funds as the Central Government may, from time to time, direct.

(2) The management of the said funds, the sums to be carried from time to time to the credit thereof and the application of the moneys comprised therein shall be determined by the Board:

Provided that no fund shall be utilised for any purpose other than that for which it was created without the previous approval of the Central Government.

38. The Board shall have power to spend such sums as it thinks fit on objects authorised under this Act and such sums shall be treated as expenditure payable out of the fund of the Board.

39. (1) The Board shall by such date in each year as may be prescribed, prepare and submit to the Administrator for approval a budget for the next year showing the estimated receipts and expenditure of the sum is covered by a current budget grant approved

(2) Subject to the provisions of sub-sections (3) and (4), no sum shall be expended by or on behalf of the Board unless the expenditure of the sum is covered by a current budget grant approved by the Administrator.

(3) Subject to such conditions and restrictions as may be specified in this behalf by the Administrator, the Board may sanction any reappropriation within the grant from one head of the expenditure to another subject to the condition that the aggregate budget grant is not exceeded.

(4) The Board may, within such limits and subject to such conditions as may be prescribed, incur expenditure in excess of the limit provided in the budget approved by the Administrator under any head of expenditure.

40. (1) The Board shall maintain proper accounts and other records and prepare an annual statement of account including the profit and loss account and the balance-sheet in such form as may be prescribed by the Administrator in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Board shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Administrator and the Administrator shall cause the same to be laid before the Metropolitan Council of Delhi. 5

CHAPTER V

MISCELLANEOUS

Power to require railway level, etc. to be raised or lowered.

Buildings, railways and private streets not to be erected or constructed over water works without permission.

Rights of user of property for aqueducts, lines etc.

41. If the Board places or carries any pipe or does any work connected with the water supply or sewage disposal across any railway line, it may, with the sanction of the Central Government 10 and at the cost of its fund, require the railway administration to raise or lower the level thereof.

42. (1) Without the written permission of the Board, no railway or private street shall be constructed and no building, wall, fence or other structure shall be erected on any water works constructed 15 or maintained by, or vested in, the Board.

(2) If any railway or private street be constructed or any building, wall, fence or structure erected on any water works as aforesaid without the written permission of the Board, the Board may cause the same to be removed or to be dealt with in such manner 20 as it thinks fit.

(3) The expenses incurred by the Board in so doing shall be paid by the owner of the private street, or of the building, fence, wall or other structure, or, as the case may be, by the railway administration or the person offending and shall be recoverable as an 25 arrear of land revenue.

43. (1) The Board may cause to be placed and maintained aqueducts, conduits and lines of mains or pipes over, under, along or across any immovable property without acquiring the same and may at any time for the purpose of examining, repairing, altering 30 or removing any aqueducts, conduits or lines of mains or pipes authorise any of its officers to enter on any property over, under, along or across which the aqueducts, conduits or lines of mains or pipes have been placed:

Provided that the Board shall not acquire any right of user in 35 the property over, under, along or across which any aqueduct, conduit or line of mains or pipes is placed.

(2) The powers conferred by sub-section (1) shall not be exercisable in respect of any property vested in the Union or under the control or management of the Central Government or railway 40

administration or vested in any local authority save with the permission of the Central Government or railway administration or the local authority, as the case may be, and in accordance with any rules made in this behalf:

5 Provided that the Board may, without such permission, repair, renew or amend any existing works of which the character and composition is not to be altered if such repair, renewal or amendment is urgently necessary in order to maintain without interruption the supply of water or disposal of sewage or is such that delay would be dangerous to health, human life or property.

(3) In the exercise of the powers conferred upon it by this section, the Board shall cause as little damage and inconvenience as may be possible and shall make full compensation for any damage or inconvenience caused by it.

15 44. (1) If any dispute arises between the Board and any receiving body as to the liability of that receiving body to pay any sum demanded by the Board or as to the amount of any refund, from the Board, then, that receiving body may require the Board to refer the matter in dispute to the Administrator and the decision of the 20 Administration thereon shall be final:

Disputes
as to
liability
for pay-
ment to
or by
Board.

Provided that where the dispute relates to the liability of any receiving body to make any payment to the Board, the payment shall be made to the Board pending the decision of the Administrator.

25 (2) In making any such reference, the Board shall furnish to the Administrator and the receiving body concerned a full statement of the grounds of the dispute and the Administrator shall consider that statement together with a like statement received from the said receiving body within six weeks of the date of the reference.

30 45. If any receiving body does not, within one month of the receipt of demand for any sum claimed by the Board, pay such sum, the Administrator may, on the requisition from the Board in this behalf,—

Summary
recovery
of sums
due from
receiving
bodies.

35 (a) if the balances of that receiving body are kept in the Government Treasury, order the officer in charge of the Treasury to reduce the balances at the credit of that receiving body by the amount of the sum due and pay that amount to the Board, or

40 (b) in any other case, deduct the amount of the sum due from any contribution or sum payable by the Central Government to that receiving body and pay the amount so deducted to the Board.

Board not
to give up
certain
works,
etc., with-
out per-
mission.

Employ-
ment of
Govern-
ment
agencies
for
repairs,
etc.

Power of
entry.

Supply of
water by
Board to
bodies
outside
Delhi.

Penalty.

46. Without the previous permission of the Administrator, the Board shall not,—

(a) give up any scheme of work in relation to bulk water supply or sewage disposal approved by the Municipal Corporation of Delhi before the commencement of the Delhi Municipal Corporation (Amendment) Act, 1966, or

(b) give up or slow down the execution of any work undertaken by the Municipal Corporation of Delhi in pursuance of any such scheme.

47. The Central Government may, for reasons to be recorded, direct that any specified work, repair, renewal or replacement which is to be undertaken by or for the Board under this Act shall be carried out on behalf of the Board by the Central Government and the Board shall pay the charges therefor at the rates and subject to the terms for the time being applicable in the case of work constructed by that Government on behalf of a local authority.

48. Whenever it is necessary for the Board to carry out any of its works or to make any survey, examination or investigation, preliminary or incidental to the exercise of powers or the performance of duties by the Board under this Act, any officer or other employee of the Board generally or specially empowered by the Board may enter upon any land or premises between sunrise and sunset after giving a reasonable notice of the intention to make such entry to the owner or occupier of such land or premises and at any other time with the consent in writing of the owner or occupier of such land or premises for the purpose of carrying out such works or the making of such survey, examination or investigation.

49. Notwithstanding anything contained in this Act, if at any time the Board finds that the water available with it is in excess of the requirements of the receiving bodies under section 22, the Board may, with the permission of the Administrator, supply such excess water to any body in any State contiguous to Delhi on such terms and conditions as may be agreed between the Board and that body.

50. Any person who—

(a) wilfully obstructs any person acting under the authority of the Board in setting out the line of any works, or pulls up or removes any pillar, post or stake fixed in the ground for the purpose of setting out the lines of such works, or defaces or destroys any works made for the same purpose, or

(b) wilfully or negligently breaks, injures or opens any lock, cock, valve, pipe or other water or sewage work belonging to the Board, or

(c) unlawfully obstructs the flow of, or flushes, draws off, diverts or takes water from, any water work belonging to the

Board, or any water or stream by which any such water work is supplied, or

5 (d) unlawfully obstructs the flow of, or flushes, draws off, diverts or takes sewage from any sewage work belonging to the Board, or breaks or damages any electrical transmission line maintained by the Board, or

10 (e) obstructs any officer or other employee of the Board in the discharge of his duties under this Act, or refuses or wilfully neglects to furnish him with the means necessary for making any entry, inspection, examination or inquiry thereunder in relation to any water or sewage work, or

15 (f) bathes in, at or upon any water work, or washes, throws or causes to enter therein any animals, or throws any rubbish, dirt, filth or other offensive matter into any water work, or washes or cleans therein any cloth, wool or leather or the skin of any animal, or causes the water of any sink, sewer or drain or of any steam engine or boiler or any other dirty water to turn or be brought into any water work, or does any other act whereby the water in any water work, is fouled or likely to be fouled.

20 shall be punishable with fine which may extend to one thousand rupees

51. All members of the Board and all officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or of any other law, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Members,
officers
and other
employees
of Board
to be
public
servants.

52. (1) The Administrator may give to the Board general instructions to be followed by the Board, and such instructions may include directions relating to the recruitment and conditions of service of officers and other employees of the Board.

Power of Ad-
ministrator
to give ins-
tructions to
Board.

(2) In the exercise of its powers and performance of its duties under this Act, the Board shall not depart from any general instruction issued under sub-section (1) except with the previous permission of the Administrator.

53. (1) The Administrator may, by notification in the Official Gazette make rules to give to the provisions of this Act.

Power to
make
rules.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters, namely:—

(a) the term of office of, and the manner of filling casual vacancies among, the members of the Board under sub-section 5 (1) of section 5;

(b) the salaries and allowances and other conditions of service of the Chairman, the Member (Engineering) and the Member (Finance) and the allowances payable to the elected members of the Board, under sub-section (2) of section 5; ¹⁰

(c) the items of expenditure incurred by the Board that may be taken into account for the purpose of calculating the final issue rate under sub-section (3) of section 23 or for determining the total net cost of disposal of all sewage under sub-section (2) of section 31; ¹⁵

(d) the date by which and the form in which the budget shall be submitted in each year under sub-section (1) of section 39;

(e) the limits within which and the conditions subject to which the Board may incur expenditure in excess of the limit provided in the budget under any head of expenditure under sub-section (4) of section 39;

(f) the form in which the annual statement of accounts shall be prepared under sub-section (1) of section 40;

(g) the conditions subject to which the Board may exercise the powers conferred by section 43 in respect of property vested in the Union or under the control or management of the Central Government or railway administration or vested in any local authority; ²⁵

(h) any other matter which is to be or may be prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. ³⁵

Power to make regulations. ⁴⁰ 54. (1) The Board may, with the previous approval of the Administrator, by notification in the Official Gazette, make regulations, not inconsistent with this Act and rules made thereunder, for

enabling it to perform or discharge its duties or functions under this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such regulations may provide for all or any of the following matters, namely:—

- (a) the time and place of meetings of the Board and the procedure to be followed in regard to transaction of business at such meetings under section 10;
- 10 (b) the manner in which and the purposes for which persons may be associated with the Board under section 11;
- (c) the conditions of appointment and service and the scales of pay of the officers and other employees of the Board, under sub-section (2) of section 15;
- 15 (d) the rates at which, and the terms on which, the Board may make provision for depreciation and for development, reserve and other funds under section 37.
- (3) The Administrator may, by notification in the Official Gazette, amend, vary or rescind any regulation which the Administrator has approved; and thereupon the regulation shall have effect accordingly but without prejudice to the validity of anything previously done under that regulation or to the exercise of the powers of the Board under sub-section (1).

55. As soon as may be after the commencement of this Act, but before the constitution of the Board under sub-section (1) of section 25 3, the Administrator shall, after consultation with the Municipal Corporation of Delhi, determine—

- 30 (a) which stores, articles and other movable properties belonging to or vested in the Municipal Corporation of Delhi for the purpose of the Delhi Water Supply and Sewage Disposal Undertaking, are being used or utilised or are required by the Municipal Corporation of Delhi for the maintenance, repair or extension of the works or other property specified in the Second Schedule;
- 35 (b) which debts, obligations and liabilities have been incurred, which contracts have been entered into and what all matters and things have been engaged to be done by, with or for the Municipal Corporation of Delhi in relation to the stores, articles and other movable properties referred to in clause (a) or in relation to the works or other property specified in the Second Schedule or in connection with the maintenance, repair or extension of such works or other property;

Power of
Administrator to
determine
stores,
articles,
etc.

(c) which officers and other employees of the Municipal Corporation of Delhi are serving that Corporation and are required in connection with the maintenance, repair or extension or any matter incidental thereto, of the works or other property specified in the Second Schedule.

5

Vesting
of certain
properties
in the
Board and
provision
regarding
debts,
obliga-
tions, em-
ployees,
etc.

56. On the constitution of the Board under sub-section (1) of section 3,—

(a) the works and other property specified in the Second Schedule and all stores, articles and other movable properties referred to in clause (a) of section 55 and all interests of whatsoever nature 10 and kind therein, belonging to or vested in the Municipal Corporation of Delhi for the purpose of the Delhi Water Supply and Sewage Disposal Undertaking immediately before such constitution, shall vest in the Board;

(b) all debts, obligations and liabilities, all contracts and all 15 matters and things, referred to in clause (b) of section 5 and subsisting immediately before such constitution, shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board;

(c) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the Municipal Corporation of Delhi immediately before such constitution in relation to the works and other properties and interests therein vested in the Board under clause (a) may be continued or instituted by or against the Board; 25

(d) notwithstanding anything contained in section 15, every officer and other employee of the Municipal Corporation of Delhi referred to in clause (c) of section 55 shall be transferred to and become an officer or other employee of the Board with such designation as the Board may determine and shall hold 30 office by the same tenure, on the same remuneration and under the same terms and conditions of service as he would have held the same if the Board had not been constituted and shall continue to be so unless and until such tenure, remuneration and terms and conditions of service are duly altered by the Board: 35

Provided that the tenure, remuneration and terms and conditions of service of any such officer or other employee shall not be altered to his disadvantage without the approval of the Central Government:

Provided further that any service rendered by any such 40 officer or other employee before the constitution of the Board shall be deemed to be service rendered under the Board.

57. (1) Where the sum total of the value of the works and other properties and interests therein vested in the Board under clause (a) of section 56 (hereinafter in this section referred to as "the assets") exceeds the sum total of the debts, obligations and liabilities which are deemed to have been incurred by the Board under clause (b) of that section (hereinafter in this section referred to as "the liabilities"), such excess shall be treated as a loan made to the Board by the Municipal Corporation of Delhi and such loan shall be paid by the Board to the Municipal Corporation of Delhi on such terms and conditions as may be determined by the Central Government in this behalf.

(2) Where the sum total of the liabilities exceeds the sum total of the value of the assets, such excess shall be paid by the Municipal Corporation of Delhi to the Board on such terms and conditions as may be determined by the Central Government in this behalf.

(3) The sum total of the value of the assets and the sum total of the liabilities shall be such amounts as may be arrived at by agreement between the Board and the Municipal Corporation of Delhi and where no such agreement can be reached, the amounts shall be determined by an arbitral tribunal consisting of one nominee of the Board, one nominee of the Municipal Corporation of Delhi and a Chairman to be nominated by the Chief Justice of the High Court exercising jurisdiction in relation to Delhi.

(4) An appeal shall lie to the aforesaid High Court against the decision of the tribunal and the order of the High Court on such appeal shall be final.

58. (1) If the Central Government, on receipt of a report from the Power to Administrator or otherwise, is satisfied that the Board is unable to perform or has persistently made default in the performance of the duties imposed on it by or under the provisions of this Act or has exceeded or abused its powers, the Central Government may, by notification in the Official Gazette, supersede the Board for such period as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Central Government shall give a reasonable time to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

40 (a) all the members of the Board shall, as from the date of supersession, vacate their offices as such members;

(b) all the powers and duties which may by or under the provisions of this Act or of any other law, be exercised or performed by or on behalf of the Board, shall, during the period of supersession, be exercised and performed by such person or persons as the Central Government may direct; 5

(c) all works and other properties vested in the Board shall, during the period of supersession, vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may,—10

(a) extend the period of supersession for such further term as it may consider necessary, or

(b) reconstitute the Board in the manner provided in section 3. 15

(4) An order of supersession made under this section together with a statement of the reasons therefor shall be laid before each House of Parliament as soon as may be after it has been made.

Power to remove difficulties.

59. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, as occasion requires, do anything which appears to it to be necessary for the purpose of removing the difficulty: 20

Provided that no such order shall be made after the expiration of two years from the constitution of the Board under section 3.

25 THE FIRST SCHEDULE

[See sections 17(2) and 22]

PART A

Places at which the Board shall be bound to supply water in bulk to the Municipal Corporation of Delhi

- 1. Hindu Rao
- 2. Rani Jhansi.
- 3. Flagstaff.
- 4. Jhandewalan.
- 5. Upper Ridge.

30

- 6. New Rajinder Nagar.
- 7. Shadipur.
- 8. Kalkaji.
- 9. Cantonment.
- 5 10. Industrial area.
- 11. Overhead tank at Shahdara.

PART B

Places at which the Board shall be bound to supply water in bulk to the New Delhi Municipal Committee

- 10 1. Jhandewalan Reservoir.
- 2. Talkatora Reservoir.
- 3. Hasanpur Reservoir.
- 4. Cantonment Reservoir.

PART C

15 Place at which the Board shall be bound to supply water in bulk to the Military Engineer Services, Delhi Cantonment.

Cantonment Reservoir.

THE SECOND SCHEDULE

(See sections 55 and 56)

PART A

List of works and other property relating to water supply.

- (1) At Wazirabad.
 - (a) Wazirabad barrage.
 - (b) All spurs, bunds and guide banks.
 - (c) River training works.
 - 25 (d) River intakes and regulator with pipes and channels.
 - (e) Raw water sumps and pump houses and pumps.
 - (f) Raw water rising mains.
 - (g) Raw water settling tanks with thickener plant.
 - (h) Raw water conduits up to the Chandrawal I and II.

- (i) New 1st 40 MGD water treatment plant complete up to the end of clear water pump house.
- (j) Land and staff quarters.
- (k) Steam plant.
- (2) At Chandrawal I and II. 5
- (a) Complete installations with treatment plants, pump houses, pumps, clear water reservoirs, channels and pipes.
- (b) Land and staff quarters, canteen and dispensary.
- (c) Workshop.
- (d) Godowns. 10
- (e) Steam plant.
- (3) At Intake Works, Okhla.
- (a) Intake pier.
- (b) Suction wells.
- (c) Raw water pump house and pumps. 15
- (d) Raw water rising mains up to treatment plant near Jamia Millia 10"x 12"x 24" dia.
- (e) Land, staff quarters and compound wall.
- (4) At Treatment Plant, Jamia Millia.
- (a) Complete treatment plants and installations. 20
- (b) Clear water reservoirs.
- (c) Clear water pump house and pumps.
- (d) Pipe connections.
- (e) Land, staff quarters and compound wall.
- (5) All rising mains connecting various treatment plants and 25 reservoirs ranging in size from 12" to 48" along with accessories and fittings.
- (6) All reservoirs located at the following places along with land, and staff quarters.
 - (a) Hindu Rao. 30
 - (b) Rani Jhansi.
 - (c) Flagstaff.

- (d) Jhandewalan.
- (e) Talkatora
- (f) Upper Ridge.
- (g) New Rajinder Nagar.
- 5 (h) Shadipur.
- (i) Hasanpur.
- (j) Kalkaji.
- (k) Cantonment.
- (l) Industrial area
- 10 (m) R.C.C. Overhead tank, Shahdara.
- (7) Booster pumping stations and office quarters located at--

 - (a) Jhandewalan.
 - (b) Talkatora.
 - (c) Patel Road.
 - 15 (d) Rajinder Nagar.

- (8) All bulk water supply venturi and other meters located at various reservoirs and rising main tapping points along with chambers and piping.
- (9) Staff quarters at Arambagh Square.

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PART B

- List of works and other property relating to sewage disposal*
- (1) Okhla sewage treatment plant including irrigation channels.
 - (2) Kilokri sewage pumping station including rising main up to the gravity duct.
 - 25 (3) Ring road sewage pumping station including rising main up to gravity duct.
 - (4) Gravity duct from Kilokri pumping station to Okhla sewage disposal works.
 - 30 (5) 66 " dia. out-fall sewers (new and old) from Q point up to Kilokri pumping station.
 - (6) 75—84" dia. sewer from Tilak Bridge up to Q point.
 - (7) 5'—4"×8'—0" gg shaped sewer from Vinay Nagar up to Kilokri pumping station.

- (8) 54"—78"—90"—108"dia. trunk sewer from Delhi Gate to Ring Road pumping station.
- (9) 48" dia. cross connecting sewer between old and new trunk sewers along Bhagwan Das Road, Cornwallis Road and along Barapulla Nallah. 5
- (10) North sewage treatment plant near Coronation pillar including irrigation channels.
- (11) Najafgarh Nallah pump house including 37" dia. rising main up to the purification plant.
- (12) 48" dia. trunk sewer from Anda Mugal pumping station up to pump house.
- (13) West Delhi sewage treatment plant near Keshopur village including pumping station and irrigation channels.
- (14) 66" dia. trunk sewer along Najafgarh Road from junction Patel Road up to the purification plant. 15
- (15) Duplicating rising main from Ring Road pumping station to high level gravity duct.
- (16) Extension of trunk sewer from Delhi Gate to Red Fort.
- (17) Trunk sewer along Jail Road from Delhi-Ambala Railway Line up to existing 66" dia. sewer (Phase I). 20

STATEMENT OF OBJECTS AND REASONS

The Water Supply and Sewage Disposal Undertaking of the Municipal Corporation of Delhi is at present in charge of processing and distribution of drinking water within the local limits of the Corporation. The Undertaking also makes bulk supplies of drinking water to the New Delhi Municipal Committee and the Military Engineer Services, Delhi Cantonment, and is also responsible for the disposal of sewage in the Corporation and New Delhi areas. With a view to meet the expanding water supply requirements of Delhi and to deal with effectively the problem of sewage disposal, it is proposed to constitute a separate statutory Board, namely, the Delhi Water Supply and Sewage Disposal Board to be in charge of processing of water and making bulk supplies thereof to the Municipal Corporation of Delhi, the New Delhi Municipal Committee and the Military Engineer Services, Delhi Cantonment and of the disposal of sewage in the Corporation and New Delhi areas. The Bill is intended to achieve these objects.

2. The salient features of the Bill are as under:—

(i) The Board to be constituted under the Bill will be a body corporate and will consist of six members. Of these, two will be elected by the members of the Metropolitan Council of Delhi and one by the members of the Municipal Corporation of Delhi, from among themselves and the other three members (including the Chairman) will be appointed by the Administrator.

(ii) The Board will be charged with the general duty of providing bulk supply of water to the Municipal Corporation of Delhi, the New Delhi Municipal Committee and the Military Engineer Services, Delhi Cantonment and of making adequate provision for the disposal of sewage delivered to it by the Municipal Corporation of Delhi and the New Delhi Municipal Committee.

(iii) The quantity of water that may be supplied to the aforesaid receiving bodies is to be fixed by agreement between the Board and the concerned receiving body and in case where the total demand of the receiving bodies is in excess of the available supply, the Board will determine the proportion in which the water is to be supplied to each receiving body.

(iv) The expenditure incurred by the Board on the supply of water to the receiving bodies will be recovered from the bodies in the same proportion as the supplies are made to them.

(v) A duty has been cast on the Board to receive in bulk from the Municipal Corporation of Delhi and the New Delhi Municipal Committee all sewage delivered to it by the said Corporation or Committee and dispose of such sewage.

(vi) The total net cost of the disposal of the sewage will be borne by the Municipal Corporation of Delhi and the New Delhi Municipal Committee in such proportion as the Administrator may from time to time determine and the same will have to be paid by the said Corporation and Committee to the Board.

(vii) In order to enable the Board to discharge its functions, provision has been made for the making of payments by the Central Government to the Board, by way of grant, loan or otherwise.

(viii) Provision has been made for audit of the accounts of the Board by the Comptroller and Auditor-General of India.

(ix) If at any time the Board finds that the water available with it is in excess of the requirements of the Municipal Corporation of Delhi, the New Delhi Municipal Committee and the Military Engineer Services, Delhi Cantonment, the Board may supply, with the previous permission of the Administrator, such excess to any body in any State contiguous to Delhi on such terms and conditions as may be agreed between the Board and that body.

(x) Certain works and other property of the existing Water Supply and Sewage Disposal Undertaking of the Municipal Corporation of Delhi specified in the Second Schedule to the Bill (including those stores, articles and other movable properties which are being used or utilised or are required by that Corporation for the maintenance, repair or extension of such works or other property) and the liabilities relating thereto are proposed to be transferred to the Board. Provision has also been made for the allocation of officers and other employees of the Water Supply and Sewage Disposal Undertaking between the Municipal Corporation of Delhi and the Board and for financial adjustments between that Corporation and the Board as a result of the division and transfer of assets and liabilities of the Undertaking to the Board.

(xi) Provision has been made enabling the Central Government to supersede the Board in case where the Central Government is satisfied that the Board is unable to perform or has persistently made default in the performance of the duties imposed on it by or under the provisions of the Act or has exceeded or abused its powers.

3. The other provisions of the Bill relate to matters which are incidental to the proper functioning of the Board.

NEW DELHI;

G. L. NANDA.

The 21st August, 1966.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117
OF THE CONSTITUTION OF INDIA

[Copy of letter No. 3/10/66-S.R., dated the 23rd August, 1966 from Shri Jai Sukh Lal Hathi, Minister of State in the Ministry of Home Affairs to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the Bill to provide for the constitution of a Board for the maintenance, development and regulation of water supply and sewerage services in the Union territory of Delhi and for matters connected therewith recommends, under clauses(1) and (3) of article 117 of the Constitution, the introduction of the said Bill in and its consideration by the Lok Sabha.

FINANCIAL MEMORANDUM

Clause 36 of the Bill empowers the Central Government to make grants or loans to the Board. Under clause 47 of the Bill, the Central Government may direct that any specified work, repair, renewal or replacement which is to be undertaken by or for the Board shall be carried out on behalf of the Board by the Central Government and the Board shall pay the charges therefor at the rates and subject to the terms for the time being applicable in the case of work constructed by that Government on behalf of a local authority.

To meet the capital requirements of the Delhi Water Supply and Sewage Disposal Undertaking of the Municipal Corporation of Delhi, loans amounting to Rs. 225 lakhs and Rs. 300 lakhs were advanced to the Undertaking by the Central Government during the years 1964-65 and 1965-66 respectively and a provision of Rs. 330 lakhs has been made for the purpose during the current financial year, *i.e.*, 1966-67. A substantial part of such loan assistance would have to be made available to the Board when it is constituted to meet its requirements. The provisions of clause 47 are of enabling nature only and the contingency of incurring initial expenditure in relation to matters specified in that clause would, if at all, arise only after the constitution of the Board and after watching its working.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 5, 23, 31, 39, 40 and 43 contain *inter alia* provisions empowering the Administrator to make rules with respect to the following:—

(a) the terms of office of, and the manner of filling casual vacancies among the members of the Board, the salaries and allowances and other conditions of service of the Chairman, the Member (Engineering) and the Member (Finance) and the allowances payable to the elected members of the Board (clause 5);

(b) the items of expenditure incurred by the Board that may be taken into account for the purpose of calculating the final issue rate and for determining the total net cost of disposal of all sewage (clauses 23 and 31);

(c) the date by which and the form in which the budget shall be submitted in each year, the limits within which and the conditions subject to which the Board may incur expenditure in excess of the limit provided in the budget under any head of expenditure (clause 39);

(d) the form in which the annual statement of accounts shall be prepared (clause 40); and

(e) the conditions subject to which the Board may exercise the powers in respect of property vested in the Union or under the control or management of the Central Government or railway administration or vested in any local authority (clause 43).

2. Clauses 10, 11, 15 and 37 empower the Board to make regulations in respect of the following:—

(a) the time and place of meetings of the Board and the procedure to be followed in regard to transaction of business at such meetings (clause 10);

(b) the manner in which and the purposes for which persons may be associated with the Board (clause 11);

(c) the conditions of appointment and service and the scales of pay of the officers and other employees of the Board (clause 15); and

(d) the rates at which and the terms on which the Board may make provision for depreciation and for development, reserve and other funds (clause 37).

3. The above are matters of administrative detail and the delegation of legislative power is, therefore, of a normal character,

BILL No. 58 OF 1966

*A Bill further to amend the Representation of the People Act, 1950,
and the Representation of the People Act, 1951.*

Be it enacted by Parliament in the Seventeenth Year of the
Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 5 1. (1) This Act may be called the Representation of the People (Amendment) Act, 1966. Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

CHAPTER II

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1950

Substitution of new sections for sections 3 and 4.

Allocation of seats in the House of the People.

Filling of seats in the House of the People and parliamentary constituencies.

Provision as to sitting members in certain cases.

2. For sections 3 and 4 of the Representation of the People Act, 1950 (hereafter in this Chapter referred to as the 1950-Act), the following sections shall be substituted, namely:—

43 of 1950. 5

“3. The allocation of seats to the States in the House of the People and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of each State shall be as shown in the First Schedule.

4. (1) The seat allotted in the House of the People under section 3 to the Part B tribal areas shall be the seat to be filled by a person nominated by the President.

(2) Save as aforesaid, all the other seats in the House of the People allotted to the States under that section shall be seats to be filled by persons chosen by direct election from parliamentary constituencies in the States.

(3) Every parliamentary constituency referred to in sub-section (2) shall be a single-member constituency.

(4) Every State to which only one seat is allotted under section 3 shall form one parliamentary constituency.

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(5) Save as provided in sub-section (4), the extent of all other parliamentary constituencies shall be as determined by orders of the Delimitation Commission made under the provisions of the Delimitation Commission Act, 1962 or, as the case may be, under the provisions of the Government of Union Territories Act, 1963.”.

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61 of 1962.

20 of 1963.

3. Notwithstanding anything contained in section 2 the members representing immediately before the commencement of this Act each of the States of Jammu and Kashmir and Nagaland and each of the Union territories of the Andaman and Nicobar Islands, the Laccadive, Minicoy and Amindivi Islands and Dadra and Nagar Haveli in the present House of the People shall continue to represent each such State or each such Union territory until the dissolution of the present House of the People and so often as before such dissolution any seat allotted to each such State or to each such Union territory in the present House of the People becomes vacant, it shall be filled by a person nominated by the President and that person shall represent that State or that territory in the present House of the People until its dissolution.

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4. For section 7 of the 1950-Act, the following shall be substituted, namely:—

Substitution of new sections for section 7.

5 "7. (1) The total number of seats in the Legislative Assembly of each State specified in the Second Schedule, to be filled by persons chosen by direct election from assembly constituencies, and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State, shall be as shown in that Schedule:

10 Provided that for the period referred to in clause (2) of article 371A, the total number of seats allotted to the Legislative Assembly of the State of Nagaland shall be forty-six, of which—

15 (a) six seats shall be allocated to the Tuensang district and shall be filled by persons chosen by the members of the regional council, referred to in that article, from amongst themselves in such manner as the Governor, after consulting that council may, by notification in the Official Gazette, specify, and

20 (b) the remaining forty seats shall be filled by persons chosen by direct election from assembly constituencies in the rest of the State.

(2) Every assembly constituency referred to in sub-section (1) shall be a single-member constituency.

25 (3) The extent of each assembly constituency in the State of Nagaland shall be as determined by the order of the Election Commission under section 11 of the State of Nagaland Act, 1962; and the extent of each assembly constituency in any other State shall be as determined by order of the Delimitation Commission under the provisions of the Delimitation Commission Act, 1962 or, as the case may be, under the provisions of the Government of Union Territories Act, 1963.

27 of 1962.

61 of 1962.

20 of 1963.

30

THE DELIMITATION OF PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES ORDER

35 8. (1) As soon as may be, after all the orders referred to in sub-section (5) of section 4 or in sub-section (3) of section 7 relating to the delimitation of parliamentary and assembly constituencies have been made by the Delimitation Commission or, as the case may be, the Election Commission and published in the Official Gazette, the Election Commission shall, after making such amendments as appear to it to be necessary for

Total number of seats in Legislative Assemblies and assembly constituencies.

Consolidation of delimitation orders.

40

bringing up-to-date the description of the extent of the parliamentary and assembly constituencies as given in such orders, consolidate all such orders into one single order to be known as the Delimitation of Parliamentary and Assembly Constituencies Order, 1966 and shall send authentic copies of that Order to the Central Government and to the Government of each State having a Legislative Assembly; and thereupon that Order shall supersede all the orders referred to in sub-section (5) of section 4 or in sub-section (3) of section 7 and shall have the full force of law and shall not be called in question in any court. 10 5

(2) As soon as may be, after the said Order is received by the Central Government or by the Government of a State, that Government shall cause it to be laid before the House of the People or, as the case may be, the Legislative Assembly of the State. 15

Power of
Election
Commis-
sion to
maintain
Delimita-
tion Order
up-to-
date.

9. (1) The Election Commission may, from time to time, by notification published in the Gazette of India and in the Official Gazette of the State concerned,—

(a) correct any printing mistake in the Delimitation of Parliamentary and Assembly Constituencies Order, 1966, 20 or any error arising therein from inadvertent slip or omission;

(b) where the boundaries or name of any district or any territorial division mentioned in the Order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing the Order up-to-date. 25

(2) Every notification under this section shall be laid, as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.”.

Insertion
of new
section
13AA.

District
election
officers.

5. After section 13A of the 1950-Act, the following section shall 30 be inserted, namely:—

“13AA. (1) For each district in a State, other than a Union territory, the Election Commission shall, in consultation with the Government of the State, designate or nominate a district election officer who shall be an officer of Government:

Provided that the Election Commission may designate or nominate more than one such officer for a district if the Election Commission is satisfied that the functions of the office cannot be performed satisfactorily by one officer. 35

(2) Where more than one district election officer are designated or nominated for a district under the proviso to subsection (1), the Election Commission shall in the order designating or nominating the district election officers also specify the area in respect of which each such officer shall exercise jurisdiction.

(3) Subject to the superintendence, direction and control of the chief electoral officer, the district election officer shall co-ordinate and supervise all work in the district or in the area within his jurisdiction in connection with the preparation and revision of the electoral rolls for all parliamentary, assembly and council constituencies within the district.

(4) The district election officer shall also perform such other functions as may be entrusted to him by the Election Commission and the chief electoral officer.".

6. In section 13B of the 1950-Act, in sub-section (1), for the words "for a parliamentary constituency in each of the Union territories of Delhi, the Andaman and Nicobar Islands, the Laccadive, Minicoy and Amindivi Islands and Dadra and Nagar Haveli", the words "for each parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly" shall be substituted.

7. For section 13D of the 1950-Act, the following section shall be substituted, namely:—

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“13D. (1) The electoral roll for every parliamentary constituency, other than a parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly, shall consist of the electoral rolls for all the assembly constituencies comprised within that parliamentary constituency; and it shall not be necessary to prepare or revise separately the electoral roll for any such parliamentary constituency:

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Provided that for the period referred to in clause (2) of article 371A, it shall be necessary to prepare and revise separately the electoral roll for that part of the parliamentary constituency of Nagaland which comprises the Tuensang district and the provisions of Part III shall apply in relation to the preparation and revision of the electoral roll of the said part as they apply in relation to an assembly constituency.

(2) The provisions of Part III shall apply in relation to every parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly as they apply in relation to an assembly constituency.”.

Amend-
ment of
section 20.

8. In section 20 of the 1950-Act,—

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(a) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Any person having a service qualification shall be deemed to be ordinarily resident on any date in the constituency in which, but for his having such service qualification, he would have been ordinarily resident on that date.”;

(b) in sub-section (4), the words “or any person who is employed under the Government of India in a post outside India,” and the words “or employment” shall be omitted;

(c) in sub-section (5),—

15

(i) for the words “but for his service in the armed forces or, as the case may be, the armed police force”, the words “but for his having the service qualification” shall be substituted;

(ii) the words “or being employed in any such post”²⁰ shall be omitted; and

(iii) for the words “conclusive evidence of that fact”, the words “accepted as correct” shall be substituted;

(d) after sub-section (6), the following sub-sections shall be inserted, namely:—

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‘(7) If in any case a question arises as to where a person is ordinarily resident at any relevant time, the question shall be determined with reference to all the facts of the case and to such rules as may be made in this behalf by the Central Government in consultation with the Election Commission.³⁰

(8) In sub-sections (3) and (5) “service qualification” means—

(a) being a member of the armed forces of the Union; or

35

46 of 1950

(b) being a member of a force to which the provisions of the Army Act, 1950, have been made applicable whether with or without modifications; or

5 (c) being a member of an armed police force of a State, who is serving outside that State; or

(d) being a person who is employed under the Government of India, in a post outside India.'

9. In section 21 of the 1950-Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amend-
ment of
section 21.

10 "2(2) The said electoral roll shall continue to be in force until it is directed by the Election Commission to be revised in any subsequent year; and where any such direction is given, the electoral roll shall be revised in that year in the prescribed manner by reference to the qualifying date and the electoral roll as in force at the time of the issue of such direction shall continue to be in force until the completion of the revision so directed."

15 10. For section 23 of the 1950-Act, the following section shall be substituted, namely:—

Substitu-
tion of
new sec-
tion for
section 23.

20 "23. (1) Any person whose name is not included in the electoral roll of a constituency may apply to the electoral registration officer for the inclusion of his name in that roll.

Inclusion
of names
in elec-
toral
rolls.

25 (2) The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein:

30 Provided that if the applicant is registered in the electoral roll of any other constituency, the electoral registration officer shall inform the electoral registration officer of that other constituency and that officer shall, on receipt of the information, strike off the applicant's name from that roll.

35 (3) No amendment, transposition or deletion of any entry shall be made under section 22 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section, after the last date for making nominations for an election in that constituency or in the parliamentary constituency within which that constituency is comprised and before the completion of that election."

11. In section 24 of the 1950-Act, the word "and" occurring at the end of clause (a) shall be omitted and clause (b) shall be omitted.

Amend-
ment of
section 24.

**Amend-
ment of
section 28.**

12. In section 28 of the 1950-Act, in sub-section (2), for clause (a), the following clauses shall be substituted, namely:—

“(a) the determination of ordinary residence under sub-section (7) of section 20;

(aa) the particulars to be entered in the electoral rolls;”.

5

**Substitu-
tion of
new
Schedule
for First
Schedule.**

13. For the First Schedule to the 1950-Act, the following Schedule shall be substituted, namely:—

“THE FIRST SCHEDULE

(See section 3)

Allocation of seats in the House of the People

10

Name of State, Union territory or area	Total number of seats	Reserved for scheduled castes	Reserved for scheduled tribes	
I	2	3	4	15

I.—STATES:

1. Andhra Pradesh	43	6	2	
2. Assam	12	1	2	
3. Bihar	53	7	5	
4. Gujarat	22	1	3	20
5. Jammu and Kashmir	6	..	..
6. Kerala	18	2	..	
7. Madhya Pradesh	36	5	7	
8. Madras	41	7	..	
9. Maharashtra	44	6	2	25
10. Mysore	26	3	..	
11. Nagaland	1	..	..
12. Orissa	20	4	4	
13. Punjab	22	5	..	
14. Rajasthan	22	3	2	30
15. Uttar Pradesh	86	18	..	
16. West Bengal	36	6	2	

	I	2	3	4
II.—UNION TERRITORIES :				
5	1. Andaman and Nicobar Islands	1	..	..
	2. Dadra and Nagar Haveli	1	..	1
	3. Delhi	5	1	..
	4. Goa, Daman and Diu	2	..	..
	5. Himachal Pradesh	4	1	..
	6. Laccadive, Minicoy and Aminidivi Islands	1	..	1
10	7. Manipur	2	..	1
	8. Pondicherry	1	..	..
	9. Tripura	2	..	1
III.—AREA :				
	Part B tribal areas	1	..	..
15	TOTAL	508	76	33".

14. For the Second Schedule to the 1950-Act, the following Schedule shall be substituted, namely:—

"THE SECOND SCHEDULE

(See section 7)

20 Total number of seats in the Legislative Assemblies

Substitution of new Schedule for Second Schedule.

	Name of the State/ Union territory	Total number of seats	Reserved for scheduled castes	Reserved for scheduled tribes	
25	I	2	3	4	
I.—STATES :					
	1. Andhra Pradesh	300	43	11	
	2. Assam	105	5	23	
	3. Bihar	318	40	32	
30	4. Gujarat	154	11	21	
	5. Kerala	126	11	1	
	6. Madhya Pradesh	288	43	54	
	7. Madras	206	37	1	

1	2	3	4	
8. Maharashtra	264	33	14	
9. Mysore	208	28	1	
10. Nagaland	60	..	..
	[for the period referred to in clause (2) of article 371A, 46]			5
11. Orissa	140	25	29	
12. Punjab	154	33	..	
13. Rajasthan	176	28	20	
14. Uttar Pradesh	430	89	..	10
15. West Bengal	252	45	15	

II.—UNION TERRITORIES :

1. Goa, Daman and Diu	30	..	..
2. Himachal Pradesh	41	12	..	
3. Manipur	30	..	..	15
4. Pondicherry	30	5	..	
5. Tripura	30	..	..

CHAPTER III

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amend-
ment of
section 2.

15. In section 2 of the Representation of the People Act, 1951 ~~20~~ ^{43 of 1951}, (hereafter in this Chapter referred to as the 1951-Act),—

(a) in sub-section (1),—

(i) after clause (c), the following clause shall be inserted, namely:—

‘(cc) “district election officer” means the officer ~~25~~ designated or nominated under section 13AA of the Representation of the People Act, 1950;’;

~~43 of 1950.~~

(ii) after clause (g), the following clause shall be inserted, namely:—

‘(h) “public holiday” means any day which is a ~~30~~ public holiday for the purposes of section 25 of the Negotiable Instruments Act, 1881;’;

~~26 of 1881.~~

(iii) clause (k) shall be omitted;

(b) for sub-section (5), the following sub-section shall be substituted, namely:—

5 “(5) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.”.

16. In Part II of the 1951-Act, for the heading “QUALIFICATIONS AND DISQUALIFICATIONS FOR MEMBERSHIP”, the heading “QUALIFICATIONS AND DISQUALIFICATIONS” shall be substituted.

Substitution of new heading for heading of Part II.

10 17. In section 3 of the 1951-Act, the brackets and words “(other than the State of Jammu and Kashmir)” shall be omitted.

Amendment of section 3.

18. In section 4 of the 1951-Act,—

Amendment of section 4.

(a) the words “to the State of Jammu and Kashmir, or” shall be omitted;

15 (b) in clause (c), the word “and” occurring at the end shall be omitted;

(c) after clause (c), the following clause shall be inserted, namely:—

20 “(cc) in the case of the seat reserved for the Scheduled Tribes in the Union territory of the Laccadive, Minicoy and Amindivi Islands, he is a member of any of those Scheduled Tribes and is an elector for the parliamentary constituency of that Union territory; and”.

19. In section 5 of the 1951-Act, in clause (b), for the words “Scheduled Tribe of that district”, the words “Scheduled Tribe of any autonomous district” shall be substituted.

Amendment of section 5.

20. In Part II of the 1951-Act, for Chapter III, the following Chapters shall be substituted, namely:—

Substitution of new Chapters for Chapter III of Part II.

‘CHAPTER III

30 DISQUALIFICATIONS FOR MEMBERSHIP OF PARLIAMENT AND STATE LEGISLATURES

7. In this Chapter,—

35 (a) “appropriate Government” means in relation to any disqualification for being chosen as or for being a member of either House of Parliament, the Central Government, and in relation to any disqualification for being chosen as or for

Definitions.

being a member of the Legislative Assembly or Legislative Council of a State, the State Government;

(b) "disqualified" means disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State.

Disqualification on conviction for certain offences.

45 of 1860.

8. (1) A person convicted of an offence punishable under section 171E or section 171F of the Indian Penal Code, or under section 125 or section 135 or clause (a) of sub-section (2) of section 136 of this Act shall be disqualified for a period of six years from the date of such conviction.

(2) A person convicted by a court in India for any offence and sentenced to imprisonment for not less than two years shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of five years since his release.

(3) Notwithstanding anything in sub-section (1) and sub-section (2), a disqualification under either sub-section shall not, in the case of a person who on the date of the conviction is a member of Parliament or the Legislature of a State, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the court.

Disqualification for corrupt practice.

8A. A person found guilty of a corrupt practice, by an order under section 99, shall be disqualified for a period of six years from the date on which that order takes effect.

Disqualification for dismissal for corruption or disloyalty.

9. (1) A person who having held an office under the Government of India or under the Government of any State has been dismissed for corruption or disloyalty to the State shall be disqualified for a period of five years from the date of such dismissal.

(2) For the purposes of sub-section (1), a certificate issued by the Election Commission to the effect that a person having held office under the Government of India or under the Government of a State, has or has not been dismissed for corruption or disloyalty to the State shall be conclusive proof of that fact.

Disqualification for Government contracts, etc.

9A. A person shall be disqualified if, and for so long as, there subsists a contract entered into by him in the course of his trade or business with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government.

5 *Explanation.*—For the purposes of this section, where a contract has been fully performed by the person by whom it has been entered into with the appropriate Government, the contract shall be deemed not to subsist by reason only of the fact that the Government has not performed its part of the contract either wholly or in part.

10 10. A person shall be disqualified if, and for so long as, he is a director, managing agent, manager or secretary of any company or corporation (other than a co-operative society) in the capital of which the appropriate Government has not less than twenty-five per cent. share. Disqualification for office under Government company.

15 10A. If the Election Commission is satisfied that a person—
 (a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act, and
 (b) has no good reason or justification for the failure, the Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order. Disqualification for failure to lodge account of election expenses.

20 20. The Election Commission, may, for reasons to be recorded, remove any disqualification under this Chapter or reduce the period of any such disqualification. Removal or reduction of period of disqualification.

CHAPTER IV

25 DISQUALIFICATIONS FOR VOTING

45 OR 1860.

30

11A. If any person, after the commencement of this Act,—
 (a) is convicted of an offence punishable under section 171E or section 171F of the Indian Penal Code, or under section 125 or section 135 or clause (a) of sub-section (2) of section 136 of this Act, or

35 (b) is found guilty of a corrupt practice by an order under section 99,

he shall, for a period of six years from the date of the conviction or from the date on which the order takes effect, be disqualified for voting at any election.

11B. The Election Commission may, for reasons to be recorded, remove any disqualification under this Chapter.

Removal of disqualifications.

Insertion
of new
section
19A.

Dele-
gation
of
functions
of Election
Commis-
sion.

Insertion
of new
section
20A.

General
duties
of district
election
officer.

Amend-
ment of
section
21.

Amend-
ment of
section
22.

Sustitu-
tion of
new sec-
tion for
section
25.

Provision
of polling
stations
for consti-
tuencies.

Amend-
ment of
section
26.

21. After section 19 of the 1951-Act, the following section shall be inserted, namely:—

“19A. The functions of the Election Commission under the Constitution, the Representation of the People Act, 1950 and this Act or under the rules made thereunder may, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, be performed also by a Deputy Election Commissioner or by the Secretary to the Election Commission.”.

22. After section 20 of the 1951-Act, the following section shall be inserted, namely:—

“20A. (1) Subject to the superintendence, direction and control of the chief electoral officer, the district election officer shall co-ordinate and supervise all work in the district or in the area within his jurisdiction in connection with the conduct of all elections to Parliament and the Legislature of the State.

(2) The district election officer shall also perform such other functions as may be entrusted to him by the Election Commission and the chief electoral officer.”.

23. In section 21 of the 1951-Act, for the words “an officer of Government”, the words “an officer of Government or of a local authority” shall be substituted.

24. In section 22 of the 1951-Act, in the proviso to sub-section (1), for the words “an officer of Government”, the words “an officer of Government or of a local authority” shall be substituted.

25. For section 25 of the 1951-Act, the following section shall be substituted, namely:—

“25. The district election officer shall, with the previous approval of the Election Commission, provide a sufficient number of polling stations for every constituency, the whole or greater part of which lies within his jurisdiction, and shall publish, in such manner as the Election Commission may direct, a list showing the polling stations so provided and the polling areas or groups of voters for which they have respectively been provided.”.

26. In section 26 of the 1951-Act,—

(a) for the words “returning officer”, wherever they occur, the words “district election officer” shall be substituted;

43 of 1950.

35

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

5 “(5) Any reference to a district election officer in section 25 and in this section shall, in relation to a constituency in a Union territory, be construed as a reference to the returning officer for that constituency.”.

27. In section 30 of the 1951-Act,—

Amend-
ment of
section
30.

(a) in clause (b), for the words “the second day after”, the words “the day immediately following” shall be substituted;

10 (b) in clause (c), for the words “the third day”, the words “the second day” shall be substituted;

(c) in clause (d), for the words “the twentieth day”, the words “the fifteenth day” shall be substituted;

(d) the *Explanation* shall be omitted.

15 28. In section 31 of the 1951-Act, the words “for the constituency” shall be omitted.

Amend-
ment of
section
31.

29. In section 33 of the 1951-Act,—

Amend-
ment of
section
33.

(a) to sub-section (1), the following proviso shall be added, namely:—

20 “Provided that no nomination paper shall be delivered to the returning officer on a day which is a public holiday.”;

(b) in sub-section (4), for the proviso, the following proviso shall be substituted, namely:—

25 “Provided that no misnomer or inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any place, mentioned in the electoral roll or the nomination paper and no clerical, technical or printing error in regard to the electoral roll numbers of any such person in the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper with respect to such person or place in any case where the description in regard to the name of the person or place is such as to be commonly understood; and the returning officer

30

shall permit any such misnomer or inaccurate description or clerical, technical or printing error to be corrected and where necessary, direct that any such misnomer, inaccurate description, clerical, technical or printing error in the electoral roll or in the nomination paper shall be overlooked.". 5

Amendment of section 39.

30. In section 39 of the 1951-Act,—

(a) in sub-section (1),—

(i) in clause (b), for the words "the second day after", the words "the day immediately following" shall be substituted; 10

(ii) in clause (c), for the words "the third day", the words "the second day" shall be substituted;

(iii) the *Explanation* shall be omitted;

(b) in sub-section (2), after clause (a) of the proviso, the following clause shall be inserted, namely:— 15

"(aa) in the case of an election to the Legislative Council of a State by the members of the Legislative Assembly of that State, clause (a) of sub-section (2) of section 36 shall be construed as including a reference to sub-clause (d) of clause (3) of article 171;".

20

Substitution of new section for section 41.

31. For section 41 of the 1951-Act, the following section shall be substituted, namely:—

Disqualification for being an-election agent.

"41. Any person who is for the time being disqualified under the Constitution or under this Act for being a member of either House of Parliament or the House or either House of the Legislature of a State or for voting at elections, shall, so long as the disqualification subsists, also be disqualified for being an election agent at any election.". 25

Amendment of section 52.

32. In section 52 of the 1951-Act, for the words "If a contesting candidate dies", the words and figures "If a candidate whose nomination has been found valid on scrutiny under section 36 and who has not withdrawn his candidature under section 37 dies and a report of his death is received before the publication of the list of contesting candidates under section 38, or if a contesting candidate dies" shall be substituted. 30

35

33. In section 60 of the 1951-Act, in clause (a), for sub-clauses (i), (iii) and (iv), the following sub-clauses shall be substituted, namely:—

5 “(i) any person to whom the provisions of sub-section (3) of section 20 of the Representation of the People Act, 1950 apply; 43 of 1950

 (ii) the wife of any such person as is referred to in sub-clause (i) to whom the provisions of sub-section (6) of the said section 20 apply.”.

34. After section 64 of the 1951-Act, the following section shall be inserted, namely:—

10 “64A. (1) If at the time of counting any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with, to such an extent that the result of the poll at that polling station or place cannot be ascertained, the returning officer shall forthwith report the matter to the Election Commission.

20 (2) Thereupon, the Election Commission shall, after taking all material circumstances into account, either—

25 (a) direct that the counting of votes shall be stopped, declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit, or

30 (b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election, issue such directions to the returning officer as it may deem proper for the resumption and completion of the counting and for the further conduct and completion of the election in relation to which the votes have been counted.

35 (3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.”.

36. In section 66 of the 1951-Act, for the words “shall forthwith declare”, the words “shall, in the absence of any direction by the

Amend-
ment of
section
60.

Insertion
of new
section
64A.

Destruc-
tion, loss,
etc., of
ballot
papers
at the
time of
counting.

Election Commission to the contrary, forthwith declare" shall be substituted.

Amend-
ment of
section
78.

36. Section 78 of the 1951-Act shall be re-numbered as sub-section (1) thereof and—

(a) in sub-section (1) as so re-numbered, for the words "returning officer" the words "district election officer" shall be substituted; 5

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) The reference to the district election officer in sub- section (1) shall, in relation to a constituency in a Union territory, be construed as a reference to the returning officer for that constituency.". 10

Amend-
ment of
section
79.

37. In section 79 of the 1951-Act,—

(a) for the words and figures "Parts VII and VIII", the word and figures "Part VII" shall be substituted; 15

(b) before clause (b), the following clause shall be inserted, namely:—

"(a) any reference to a High Court or to the Chief Justice or Judge of a High Court shall, in relation to a Union territory having a Court of the Judicial Commissioner, be construed as a reference to the said Court of the Judicial Commissioner or to the Judicial Commissioner or any Additional Judicial Commissioner, as the case may be;"; 20

(c) in clause (d), for the words "to withdraw", the words "to withdraw or not to withdraw" shall be substituted; 25

(d) for clause (e), the following clause shall be substituted, namely:—

'(e) "High Court" means the High Court within the local limits of whose jurisdiction the election to which the election petition relates has been held.'. 30

Insertion
of new
section
80A.

High
Court
to try
election
petitions.

38. After section 80 of the 1951-Act, the following section shall be inserted, namely:—

"80A. (1) The Court having jurisdiction to try an election petition shall be the High Court. 35

(2) Such jurisdiction shall be exercised ordinarily by a single Judge of the High Court and the Chief Justice shall, from time to time, assign one or more Judges for that purpose:

Provided that where the High Court consists only of one Judge, he shall try all election petitions presented to that Court.

39. In section 81 of the 1951-Act,—
- (a) in sub-section (1), for the words "Election Commission",
5 the words "High Court" shall be substituted; 81.
 (b) sub-section (2) shall be omitted;
 (c) in sub-section (3), the words "and one more copy for the use of the Election Commission" shall be omitted.
40. Section 85 of the 1951-Act shall be omitted. Omission of section 85.
- 10 41. For sections 86 to 92 of the 1951-Act, the following sections shall be substituted, namely:— Substitution of new sections for sections 86 to 92.
- "86. (1) The High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117. Trial of election petitions.
- 15 *Explanation.—An order of the High Court dismissing an election petition under this sub-section shall be deemed to be an order made under clause (a) of section 98.*
- (2) As soon as may be after an election petition has been presented to the High Court, it shall be referred to the Judge or one of the Judges who has or have been assigned by the Chief Justice for the trial of election petitions under sub-section 20 (2) of section 80A.
- (3) Where more election petitions than one are presented to the High Court in respect of the same election, all of them shall be referred for trial to the same Judge who may, in his discretion, try them separately or in one or more groups.
- 25 (4) Any candidate not already a respondent shall, upon application made by him to the High Court within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the High Court, be entitled to be joined as a respondent.
- 30 *Explanation.—For the purposes of this sub-section and of section 97, the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the High Court and answer the claim or claims made in the petition.*
- (5) The High Court may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not 35 40

allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(6) The trial of an election petition shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the High Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

(7) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial.¹⁰

87. (1) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the High Court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 to the trial of suits:¹⁵

Provided that the High Court shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness or witnesses if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

(2) The provisions of the Indian Evidence Act, 1872, shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition."²⁵
^{1 of 1872.}

42. In sections 95, 96, 97, 98, 99, 100, 101 and 102 of the 1951-Act, for the words "the Tribunal", wherever they occur, the words "the High Court" shall be substituted.

³⁰

43. For section 103 of the 1951-Act, the following sections shall be substituted, namely:—

"103. The High Court shall, as soon as may be after the conclusion of the trial of an election petition, intimate the substance of the decision to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned and, as soon as may be thereafter, shall send to the Election Commission an authenticated copy of the decision."³⁵

Procedure
before
the High
Court.

5 of 1908.

Amend-
ment of
sections
95, 96, 97,
98, 99, 100,
101 and
102.

Substitu-
tion of
new sec-
tions for
section 103.

Com-
munica-
tion of
orders of
the High
Court.

104. Notwithstanding anything contained in the Letters Patent of the High Court or any other law for the time being in force, every order of the High Court under this Act shall be final and conclusive.".
- Orders
of High
Court to
be final
and
con-
clusive.
- 5 44. In sections 106 and 107 of the 1951-Act, for the words "the Tribunal", wherever they occur, the words "the High Court" shall be substituted.
- Amend-
ment of
sections
106 and
107.
45. Section 108 of the 1951-Act shall be omitted.
- Omission
of section
108.
46. For sections 109 and 110 of the 1951-Act, the following sections shall be substituted, namely:—
- Substitu-
tion of
new sec-
tions for
sections
109 and
110.
- "109. (1) An election petition may be withdrawn only by leave of the High Court.
- (2) Where an application for withdrawal is made under subsection (1), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Official Gazette.
- 15 110. (1) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners.
- Procedure
for with-
drawal of
election
petitions.
- 20 (2) No application for withdrawal shall be granted if, in the opinion of the High Court, such application has been induced by any bargain or consideration which ought not to be allowed.
- (3) If the application is granted—
- 25 (a) the petitioner shall be ordered to pay the costs of the respondents theretofore incurred or such portion thereof as the High Court may think fit;
- (b) the High Court shall direct that the notice of withdrawal shall be published in the Official Gazette and in such other manner as it may specify and thereupon the notice shall be published accordingly;
- 30 (c) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing,

and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the High Court may deem fit.”.

Amend-
ment of
section
111.

47. In section 111 of the 1951-Act, for the words “the Tribunal”, 5 wherever they occur, the words “the High Court” shall be substituted.

Substitu-
tion of
new sec-
tion for
sections
112 to
115.

48. For sections 112, 113, 114 and 115 of the 1951-Act, the following section shall be substituted, namely:—

Abate-
ment of
election
petitions.

“112. (1) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners. 10

(2) Where an election petition abates under sub-section (1), the High Court shall cause the fact to be published in such manner as it may deem fit.

(3) Any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the High Court may deem fit.”.

Amend-
ment of
section
116.

49. In section 116 of the 1951-Act, for the words “the Tribunal”, 20 in both the places where they occur, the words “the High Court” shall be substituted.

Omission
of
Chapter
IVA of
Part VI.

50. Chapter IVA of Part VI of the 1951-Act shall be omitted.

Substitu-
tion of
new sec-
tions for
sections
117, 118,
119, 119A
and 120.

51. For sections 117, 118, 119, 119A and 120 of the 1951-Act, the following sections shall be substituted, namely:— 25

Security
for costs.

“117. (1) At the time of presenting an election petition, the petitioner shall deposit in the High Court in accordance with the

rules of the High Court a sum of two thousand rupees as security for the costs of the petition.

5 (2) During the course of the trial of an election petition, the High Court may, at any time, call upon the petitioner to give such further security for costs as it may direct.

118. No person shall be entitled to be joined as a respondent under sub-section (4) of section 86 unless he has given such security for costs as the High Court may direct.

Security
for costs
from a
respon-
dent.

119. Costs shall be in the discretion of the High Court:

Costs.

10 Provided that where a petition is dismissed under clause (a) of section 98, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the High Court shall make an order for costs in favour of the returned candidate.”.

15 52. In section 121 of the 1951-Act, for the words “the Election Commission”, wherever they occur, the words “the High Court” shall be substituted.

Amend-
ment of
section
121.

53. In section 123 of the 1951-Act,—

Amend-
ment of
section
123.

(a) in clause (I) (A),—

20 (i) in sub-clause (a), for the words “to withdraw”, the words “to withdraw or not to withdraw” shall be substituted;

(ii) in sub-clause (i), for the words “having withdrawn”, the words “having withdrawn or not having withdrawn” shall be substituted;

25 (b) in clause (I) (B),—

(i) in sub-clause (a), for the word “withdrawing”, the words “withdrawing or not withdrawing” shall be substituted;

30 (ii) in sub-clause (b), for the words “to withdraw”, the words “to withdraw or not to withdraw” shall be substituted;

(c) in clause (5), for the words “for the conveyance”, the words “or the use of such vehicle or vessel for the free conveyance” shall be substituted;

35 (d) in clause (2) of the *Explanation* at the end of the section, the words “, or a polling agent or a counting agent” shall be omitted.

**Amend-
ment of
section
126.**

54. In section 126 of the 1951-Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) No person shall convene, hold or attend any public meeting in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll⁵ for any election in that polling area.”.

**Amend-
ment of
section
129.**

55. In section 129 of the 1951-Act, in sub-section (1), for the words “a returning officer”, the words “a district election officer or a returning officer” shall be substituted.

**Amend-
ment of
section
130.**

56. In section 130 of the 1951-Act, in sub-section (1), for the words “one hundred yards”, the words “one hundred metres” shall be substituted.¹⁰

**Amend-
ment of
section
133.**

57. Section 133 of the 1951-Act shall be re-numbered as sub-section (1) thereof and—

(a) in sub-section (1) as so re-numbered, for the words “two¹⁵ hundred and fifty rupees”, the words “one thousand rupees” shall be substituted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) An offence punishable under sub-section (1) shall²⁰ be cognizable.”.

**Amend-
ment of
section
134.**

58. In section 134 of the 1951-Act, in sub-section (3), for the words “returning officers”, the words “district election officers, returning officers” shall be substituted.

**Insertion
of new
section
134A.**

59. After section 134 of the 1951-Act, the following section shall²⁵ be inserted, namely:—

**Penalty
for Gov-
ernment
servants
for acting
as election
agent,
polling
agent or
counting
agent.**

“134A. If any person in the service of the Government acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall be punishable with fine which may extend to five hundred rupees.”.³⁰

**Amend-
ment of
section
136.**

60. In section 136 of the 1951-Act, for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) An offence punishable under sub-section (2) shall be cognizable.”.

61. Section 137 of the 1951-Act shall be omitted:

Omission
of section
137 and
saving.

Provided that such omission shall not affect any inquiry or other proceeding under the said section pending immediately before such omission and any such inquiry or other proceeding may be continued 5 and any prosecution may be instituted as a result of such inquiry or other proceeding and any penalty or punishment may be imposed under and in accordance with the said section as if that section had not been omitted.

62. Part VIII of the 1951-Act shall be omitted.

Omission
of Part
VIII.

- 10 **63. Save as otherwise provided in this Act, nothing herein shall apply to any election which has been called before the commencement of this Act or to any election petition arising out of such election, whether such petition is pending at such commencement or is presented afterwards, and all such elections shall be held and petitions tried,**
- 15 **and all matters in connection with such elections or petitions (including the constitution of Election Tribunals) shall be regulated, in accordance with the provisions of the law in force immediately before such commencement.**

Act not
to apply
to pending
elections,
etc.

STATEMENT OF OBJECTS AND REASONS

The Election Commission have made a number of recommendations for the amendment of the election law and procedure in its Report on the Third General Elections in India in 1962 and subsequently. After careful examination, the Government have decided to accept those recommendations excepting those relating to election expenditure, increase in security deposit, multiplicity of candidates and deposit in connection with Presidential election.

The important recommendations which have been accepted by the Government relate to the following matters:—

- (i) consolidation of the provisions relating to seats and delimitation orders;
- (ii) creation of a new officer to be known as the district election officer in the electoral machinery of the country who would be an officer of the Government designated or nominated by the Election Commission in consultation with the State Government and would occupy a position in the electoral hierarchy between the chief electoral officer of the State and the returning officer for the constituency and be in charge of the preparation and revision of electoral rolls and the conduct of elections;
- (iii) revision of electoral rolls according to the direction of the Election Commission and not otherwise;
- (iv) consolidation of the provisions relating to disqualifications for membership and voting;
- (v) lessening the rigour of the disqualification resulting from the failure to lodge accounts of election expenses;
- (vi) conferment of power upon the Election Commission to delegate its functions to senior officers of the Commission;
- (vii) reduction in the time-table for the General Elections by seven days by making suitable changes in the relevant provisions of the 1951-Act;
- (viii) provision for fresh poll in the case of destruction or loss, etc., of ballot papers at the time of counting;

(ix) power of Election Commission in suitable cases to withhold the declaration of results of election;

(x) abolition of Election Tribunals and trial of election petitions by High Court;

(xi) making free conveyance of voters a corrupt practice and enhancement of the punishment for the offence;

(xii) obtaining the assistance of a Government employee as a polling or counting agent by a candidate not to be a corrupt practice but penalty for a Government employee acting as an election agent or a polling agent or a counting agent of a candidate to be imposed;

(xiii) certain offences by election officers to be cognizable.

The Bill is intended to give effect to these recommendations.

The notes on clauses explain in detail the various provisions of the Bill.

G. S. PATHAK.

NEW DELHI;
The 12th August, 1966.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F.7(6)/66-Elec., dated the 20th August, 1966 from Shri G. S. Pathak, Minister of Law to the Secretary, Lok Sabha].

The President having been informed of the subject matter of the Representation of the People (Amendment) Bill, 1966 has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended the consideration of the Bill by the Lok Sabha.

Notes on clauses

Clause 2.—By this clause, two new sections are proposed to be substituted for existing sections 3 and 4 of the Representation of the People Act, 1950. The proposed section 3 will show not only the total number of members allocated to each State, Union territory or area, but it will also show the seats reserved for the Scheduled Castes or the Scheduled Tribes which would make for convenience of reference.

Proposed section 4, apart from providing for the filling of seats in the House of the People, provides also for several matters relating to constituencies for the purpose of elections to the House of the People. Besides, sub-sections (3), (4) and (5) of the proposed section 4 consolidate at one place the provisions which at present lie scattered in different Acts such as the Delimitation Commission Act, 1962, the State of Nagaland Act, 1962 and the Government of Union Territories Act, 1963.

Clause 3.—This is a saving provision in relation to sitting nominated members in the House of the People from the Union Territories of the Andaman and Nicobar Islands and the Laccadive, Minicoy and Amindivi Islands and Dadra and Nagar Haveli and the States of Jammu and Kashmir and Nagaland.

Clause 4.—This clause seeks to substitute new sections for section 7 of the 1950-Act and new section 7 is along the lines of the proposed section 4 in relation to the House of the People.

Proposed section 8 provides for the consolidation of all the Delimitation Orders in respect of parliamentary and assembly constituencies throughout the whole of India to be known as the Delimitation of Parliamentary and Assembly Constituencies Order, 1966. This would be of great help to the candidates, voters, ministers, officials and everyone concerned.

Proposed section 9 empowers the Delimitation Commission to keep the consolidated Delimitation Order upto-date by correcting printing mistakes and other mistakes out of any inadvertent slip or omission.

Clause 5.—This clause seeks to insert a new section 13AA which provides for the creation of a new officer to be known as the district election officer in the electoral machinery of the country. In the absence of an intermediate officer of sufficiently high status bet-

ween the chief electoral officer of the State and the returning officer for the constituency, a good deal of avoidable inconvenience in connection with the preparation and revision of electoral rolls and the conduct of elections is being felt. Thus, by providing for a district election officer who will be an officer of the Government designated or nominated by the Election Commission in consultation with the State Government, it is intended to rectify the difficulties so far experienced in this behalf. It has also been provided that in the case of bigger districts, the Election Commission may designate or nominate more officers than one.

Clauses 6 and 7.—In the scheme obtaining under the 1950-Act, no separate electoral roll is prepared for a parliamentary constituency. The electoral rolls prepared for assembly constituencies form the basis for the preparation of the electoral rolls of parliamentary constituencies. However, there are a few exceptions to this general scheme in relation to the State of Jammu and Kashmir and to the Union territories not having Legislative Assemblies, namely, Delhi, the Andaman and Nicobar Islands, the Laccadive, Minicoy and Amindivi Islands and Dadra and Nagar Haveli. So far as the State of Jammu and Kashmir is concerned, the electoral rolls for the assembly constituencies are prepared on the basis of the provisions of the Jammu and Kashmir Constitution and the Jammu and Kashmir Representation of the People Act, wherein the essential condition for a person to be registered as a voter for an assembly constituency in that State is the test of his permanent residence in that State. On the other hand, under the Constitution of India and the Representation of the People Act, 1950, the necessary criterion for being registered as a voter in the electoral roll for an assembly constituency in any of the other States in India is the test of citizenship. By reason of this difference, separate provisions have to be made; and clauses 6 and 7, by making suitable amendments in sections 13B and 13D of the 1950-Act, seek to provide for this.

Clause 8.—By this clause, changes of merely drafting nature have been made in section 20 of the 1950-Act which gives the meaning of the expression "ordinarily resident". However, by a new sub-section, namely sub-section (7), it has been provided that in cases of doubt as to where a person is ordinarily resident at a particular time, the question shall be determined with reference to all the facts of the case and such rules as may be made in this behalf by the Central Government in consultation with the Election Commission. Elaborate provisions in this behalf are found in the relevant rules both in the United Kingdom and in Canada.

Clause 9.—By this clause, a new sub-section is sought to be substituted for sub-section (2) of section 21 of the 1950-Act, with a view to doing away with the necessity of having annual revision of electoral rolls, as in practice, it has been found that it is neither feasible nor is it possible to carry it out in a satisfactory manner. Hence, as suggested by the Election Commission, it has now been provided that the electoral roll shall be revised in any subsequent year only when so directed by the Election Commission.

Clause 10.—This clause seeks to substitute a new section for the existing section 23 of the 1950-Act, relating to inclusion of names in electoral rolls. The new section differs from the existing section in two particulars. Unlike as at present, under the new section, in every case the application for inclusion of name shall be made only to the electoral registration officer. Besides, it has also been provided in sub-section (3) of new section 23 that the electoral registration officer shall not give any direction for the inclusion of a name after the last date for making nomination as fixed under section 30 of the Representation of the People Act, 1951, as otherwise such applications cause considerable difficulties and inconvenience to the electoral machinery specially during general elections.

Clause 11.—Since the newly substituted section 23 provides for the making of application for inclusion of name in the electoral roll only to the electoral registration officer and not to the chief electoral officer, it has now become necessary to amend section 24 of the 1950-Act so as to provide for an appeal to the chief electoral officer against the decision of the electoral registration officer in respect of applications for inclusion of names in the electoral roll. Clause 11 seeks to amend section 24 for this purpose.

Clause 12.—The change effected in section 28 of the 1950-Act by this clause is consequential to the amendment made by clause 8 in section 20.

Clauses 13 and 14.—These two clauses seek to substitute new Schedules for the First Schedule and the Second Schedule to the 1950-Act.

Clause 15.—This clause, among other things, seeks to insert in section 2 of the Representation of the People Act, 1951, two definitions of "district election officer" and "public holiday". This has become necessary in view of the new provision for the appointment of district election officers made in the new section 13AA of the 1950-Act. Again, the definition of "public holiday" given in sections 30 and 39 of the 1951-Act has been shifted to section 2 which deals

with the general definitions of terms and expressions, and in the process, the definition has been altered with a view to exclude from its purview any day notified by the State Government to be a holiday for the Government offices in the State, as that creates lot of difficulties in the conduct of elections in view of different States declaring different days as holidays in their States.

Clause 16.—This clause makes a minor amendment of a verbal character.

Clauses 17 and 18.—The amendments made in sections 3 and 4 of the 1951-Act by these two clauses are consequential upon and are a corollary to the amendments made in the 1951-Act by clause 2 of the Bill.

Clause 19.—This clause again makes an amendment of a verbal character in section 5 of the 1951-Act.

Clauses 20 and 31.—The existing provisions relating to disqualification for membership of Parliament and State Legislatures are scattered in two places in the 1951-Act, which are wide apart from each other. Section 7 lays down the disqualification for membership. Section 8 contains some saving provision with respect thereto and section 9 contains an interpretation clause. While sections 139 and 140 specify the offences of corrupt practice which entail disqualification and also lay down the period for such disqualification, section 140A gives power to the Election Commission to remove any such disqualification or to reduce the period. Again, while section 141 provides for disqualification for voting, section 144 empowers the Election Commission to remove any such disqualification. Section 145 provides for disqualification for being an election agent of a candidate at an election. Clause 20 seeks to group together all these provisions relating to disqualification for membership and voting in one place so that it becomes easy for everyone to find at a glance the provisions contained in our election law as to disqualification for membership and voting. This is proposed to be done by new sections 7, 8, 8A, 9, 9A, 10, 10A, 11, 11A and 11B.

Apart from the grouping of the sections effected by clause 20, some changes have also been made in the relevant provisions. In the new section 9A, an *Explanation* has been added to make it clear that a contract with the Government shall be deemed not to subsist by reason only of the fact that the Government has not performed its part of the contract either wholly or in part. This change has become necessary in order to do away with the disqualification that attaches to a person for being chosen as or for being

a member of Parliament or State Legislature even after he has fully performed his part of the contract, since it would hardly be justifiable to retain such a disqualification provision in a modern welfare State when State activities extend almost over every domain of the citizens' affairs where very many persons are, in one way or other, have contractual relationship with the Government. That being the case, an unduly strict view about Government contract in the present day might lead to the disqualification of a large number of citizens many of whom may prove to be able and capable members of Parliament and State Legislatures. It would be of interest to note in this connection that in the United Kingdom, any disqualification arising out of any contract with the Crown has been done away with by the House of Commons Disqualifications Act, 1957. Likewise, the change made in the new section 10A which marks a departure from the provision contained in clause (c) of existing section 7 has become necessary to save a considerable waste of time and energy of the Election Commission and its staff who, under the existing scheme, spend considerable time in going through the returns of election expenses filed by the candidates to ascertain whether they have been lodged within the time and in the manner required by law, only to remove the disqualification imposed, as invariably the lapses and laches on the part of the candidates are of a trivial nature. To get over this, new section 10A seeks to provide that if the Election Commission is satisfied that there has been a failure to lodge an account of election expenses according to law and that there was no good reason for such failure, then the Election Commission shall declare the person concerned to be disqualified and such disqualification shall be for a period of three years.

Clause 31 substitutes a new section for existing section 41 relating to disqualification for being an election agent, and this new section 41 corresponds to existing section 145.

Clause 21.—Under the present law, there is no provision empowering the Election Commission to delegate its functions even in routine matters. This, in practice, creates lot of difficulties where the Election Commission is unable to delegate its functions even to a superior officer of the Commission. Clause 21 seeks to insert a new section 19A to provide for the delegation of functions of the Election Commission to a Deputy Election Commissioner or to the Secretary of the Commission subject to any directions that may be given by the Election Commission.

Clause 22.—This clause seeks to insert a new section 20A which provides for the duties of the district election officers in connection with the conduct of elections.

Clauses 23 and 24.—As the present provision contained in sections 21 and 22 of the 1951-Act which require a returning officer or an assistant returning officer to be an officer of the Government creates practical inconvenience and difficulty, clauses 23 and 24 seek to amend sections 21 and 22 so as to provide that a returning officer as well as an assistant returning officer may be an officer of a local authority also, such as a municipal corporation.

Clause 25.—This clause seeks to substitute a new section for section 25 of the 1951-Act so as to empower the district election officer (who will be an officer senior to the returning officer) to provide polling stations in constituencies under his jurisdiction as such a function may be better performed by him.

Clause 26.—This clause seeks to amend section 26 by providing that presiding officers and polling officers in constituencies in a State will be appointed not by the returning officer but by the district election officer. But it has also been provided that so far as a Union territory is concerned, the functions of providing polling stations as well as appointing presiding officers and polling officers will continue to be performed by the returning officers, as in a Union territory no provision has been made for the appointment of a district election officer.

Clause 27.—This clause makes suitable changes in section 30 of the 1951-Act so as to compress the time-table for election. The changes effected result in a saving of seven days in the time-table of elections.

Clause 28.—The amendment made in section 31 of the 1951-Act by this clause is purely of a drafting nature.

Clause 29.—This clause seeks to make two amendments in section 33 of the 1951-Act. In the first instance, it is proposed to add a proviso to sub-section (1) of section 33 to the effect that no nomination paper shall be delivered on a public holiday since in the absence of a specific provision of this kind, candidates sometimes insist that the office of the returning officer should be kept open even on a public holiday for the purpose of receiving their nomination papers. The new proviso to sub-section (4) is comprehensive in nature and it is on the lines of sub-section (5) of section 39 of the U.K. Representation of the People Act, 1949. This has been done to

remove all possible doubts about the power of the returning officer to correct any misnomer or inaccurate description in regard to the name of a candidate or his proposer or any other person or in regard to any place mentioned in the electoral roll or in the nomination paper.

Clause 30.—This clause seeks to amend section 39 which deals with the time-table of elections to the Rajya Sabha and to the State Legislative Councils. By the change made in section 39, a saving of two days in the time-table of elections has been effected.

A new provision has also been inserted so as to make it clear that in an election to the Legislative Council by the members of the Legislative Assembly, a member of the Assembly cannot become a candidate because he is disqualified. Such an express provision in the election law will enable the election officers who are hardly conversant with the provisions of the Constitution to be guided properly in this behalf.

Clause 32.—This clause seeks to give effect to the recommendation of the Election Commission by amending section 52 of the 1951-Act so as to provide for the countermanding of the poll even in cases where a validly nominated candidate dies before the preparation of the list of contesting candidates under section 38.

Clause 33.—This clause makes changes in section 60 of the 1951-Act which are merely of a drafting nature.

Clause 34.—This clause seeks to insert a new section after section 64 to deal with situations wherein during the stage of counting of votes any ballot papers are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed, lost or damaged or tampered with.

Clause 35.—This clause seeks to amend section 66 so as to empower the Election Commission to issue directions to withhold the declaration of the result if something goes wrong in the counting of votes and the same is brought to the notice of the Election Commission in time. The absence of such power renders the Election Commission powerless to act even when such instances are brought to the notice of the Commission.

Clause 36.—This clause seeks to amend section 78 so as to provide that the account of election expenses should be lodged with the district election officer instead of the returning officer.

Clauses 37 to 45.—One of the principal recommendations of the Election Commission relates to the abolition of Election Tribunals and the trial of election petitions by the High Courts. The changes in the 1951-Act to give effect to these recommendations are contained in clauses 37 to 45 of the Bill.

Clauses 46 to 49.—These clauses seek to streamline and simplify provisions of sections 109 to 116 of the 1951-Act relating to withdrawal and abatement of election petitions.

Clause 50.—By clause 50, Chapter IVA relating to appeals from decisions of Election Tribunals is sought to be omitted in view of the new scheme of trial of election petitions by High Courts.

Clause 51.—By this clause, new sections are sought to be substituted for existing sections 117 to 120 of the 1951-Act relating to costs and security for costs. As election petitions will be presented to and tried by the High Courts, the provisions as to costs and security for costs have been simplified.

Clause 52.—This clause makes changes in section 121 of the 1951-Act which are of a consequential nature.

Clauses 53 and 59.—Under the present law, an inducement offered to a candidate not to withdraw his candidature does not amount to a corrupt practice of bribery. It is felt that such an inducement should, with justification, be brought within the ambit of corrupt practice and clause 53 seeks to achieve this by amending section 123 of the 1951-Act. The definition of "electoral right" in section 79(d) has also been suitably altered by clause 37.

Again, under clause (5) of section 123, the hiring or procuring of any vehicle or vessel by a candidate, etc., for the conveyance of any voter is a corrupt practice. But the Election Commission has expressed the view that it is not so much the hiring or procuring of the vehicles, etc., as the free conveyance of voters by the candidate or his agent as an inducement to them to vote on his behalf that requires to be condemned as a corrupt practice. Clause (5) of section 123 has been amended suitably for this purpose.

Again, the Election Commission has expressed the view that the provision by which a person is deemed to assist in the furtherance of the prospects of the candidate's election should be restricted only to cases where he acts as an election agent and not as a polling agent or a counting agent. In view of this, references to polling agent and counting agent have been omitted from clause (2) of the *Explanation* at the end of section 123. But at the same time, new section 134A,

proposed to be inserted by clause 59, provides that if a person in the service of the Government acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall be punishable with fine which may extend to five hundred rupees. Thus, the combined effect of clause 53(d) and clause 59 will be that whereas the election of a person will not be liable to be set aside by reason of a Government employee acting as a polling agent or as a counting agent as it will no longer be a corrupt practice under clause (7) of section 123, the Government employee will himself be guilty of an offence and will be liable to punishment accordingly. Consequently, therefore, if a Government employee chooses to act as a polling agent or a counting agent of a candidate, he will do so at his own risk.

Clause 54.—Because of an erroneous understanding of the expression "twenty-four hours before the date of the commencement of the poll" used in section 126 of the 1951-Act, in practice, election meetings go on even after the mid-night which marks the beginning of the day preceding the election day. Since this was not the real intention of the section, the Election Commission has recommended a minor amendment of the section so as to clarify the position. This clause seeks to extend the period of ban on public meetings slightly by amending sub-section (1) of section 126.

Clause 55.—The amendment made by this clause in sub-section (1) of section 129 of the 1951-Act is of a consequential nature.

Clause 56.—By this clause, the reference to "one hundred yards" in section 130 of the 1951-Act has been changed to "one hundred metres" consequent on the general switch-over to the metric system.

Clause 57.—This clause by amending section 133 of the 1951-Act seeks to give effect to the recommendation of the Election Commission for enhancing the punishment for the offence of hiring and procuring of conveyance which is a corrupt practice under clause (5) of section 123. In view of the enhancement of the punishment, the offence has also been made cognizable.

Clause 58.—The amendment effected by this clause in sub-section (3) of section 134 of the 1951-Act is purely of a consequential nature.

Clauses 60 and 61.—Under the present law, a distinction has been made in the case of the same offences committed by an officer on the one hand and by an ordinary citizen on the other. While this procedure is open to challenge as being violative of article 14 of the Constitution on the ground of unreasonable discrimination, considerable difficulty and inconvenience is being experienced by the Election Com-

mission in following an elaborate and cumbersome procedure laid down in section 137 in relation to offences under section 136 committed by a returning officer or other officers. With a view to getting over the constitutional objection and the inconvenience caused in this behalf, clause 60 seeks to amend section 136 of the 1951-Act by making the offence by electoral officers cognizable and clause 61 seeks to omit section 137 of the 1951-Act as being unnecessary in view of the changed scheme. It has also been provided that the omission of section 137 shall not affect any inquiry pending before such omission.

Clause 62.—This clause seeks to omit Part VIII of the 1951-Act as the provisions relating to disqualification for membership and voting have all been brought into one place as referred to in clause 20.

Clause 63.—This clause incorporates a saving provision in relation to pending elections and election petitions which shall continue to be regulated in accordance with the provisions of law in force immediately before the commencement of this amending Act.

FINANCIAL MEMORANDUM

Clause 5 of the Representation of the People (Amendment) Bill, 1966, provides for the creation of a new officer to be known as the district election officer who will be an officer of Government designated or nominated by the Election Commission in consultation with the State Governments. The appointment of such district election officers will entail expenditure being incurred by the Election Commission which would be met from the Consolidated Fund of India. There are about 330 districts in India and as such it may be necessary to appoint about 350 officers (taking into account circumstances in which more than one district election officer will be appointed in some districts). These persons being officers of Government, it may be necessary to give them some special pay for doing the additional work as district election officers and consequently, therefore, an expenditure of about Rs. 35,000 per month is likely to be incurred. This is a recurring expenditure.

Clause 38 of the Bill provides for the trial of election petitions by High Courts instead of by election tribunals, as at present. Depending upon the strength of the High Courts in the various States, it may perhaps be necessary at least in some of the States, if not in all, to appoint more Judges for this purpose which may involve incurring of expenditure from out of the Consolidated Fund of India. On the assumption that one Judge in each State shall be exclusively assigned for the trial of election petitions, the expenditure to be incurred in this behalf may amount to about rupees seven lakhs. This is the estimated or probable expenditure during the first year after the General Elections during which most of the election petitions are expected to be disposed of. As to what will be the expenditure thereafter, it is not possible at this stage to give even a rough estimate thereof because that would depend upon the number of election petitions arising out of the General Elections, which remain undisposed of and the number of bye-elections and the number of election petitions arising therefrom.

According to the existing financial arrangements in respect of the election expenditure, such expenditure would have to be shared by the Central and State Governments on a half and half basis. Therefore, in all, on a rough estimate, the expenditure that is likely to be incurred and which would have to be met from the Consolidated Fund of India shall be about Rs. 3½ lakhs in respect of the trial of election petitions for a year within which the majority of the election petitions would be likely to be disposed of and a further sum of about Rs. 17,500 per month which may have to be incurred in respect of the district election officers.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 8 and 12 of the Bill empower the Central Government to make rules for the determination of the question as to where a person is ordinarily resident at any particular time.

The matters in respect of which rules may be made are matters of administrative detail and procedure and as such, the delegation of legislative power is of a normal character.

BILL NO. 57 OF 1966

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Twenty-first Amendment) Act, 1966.

Amend-
ment of
article
324.

2. In article 324 of the Constitution, in clause (1), the words 5 “, including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States” shall be omitted.

STATEMENT OF OBJECTS AND REASONS

One of the important recommendations made by the Election Commission in its Report on the Third General Elections in India in 1962, and accepted by the Government relates to the abolition of election tribunals and trial of election petitions by High Courts.

If the proposal for a legislation to amend the Representation of the People Act, 1951, containing, *inter alia*, provisions for the trial of election petitions by High Courts instead of by election tribunals, as at present, is accepted by Parliament, it would be necessary to make a minor amendment in clause (1) of article 324 of the Constitution for the purpose of deleting therefrom the words "including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States".

The Bill is intended to give effect to the aforesaid object.

NEW DELHI;
The 16th August, 1966.

G. S. PATHAK.

S. L. SHAKDHER,
Secretary.

